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COMMISSION ON
SECURITY AND COOPERATION IN EUROPE
CONGRESS OF THE UNITED STATES

HUMAN RIGHTS IN CZECHOSLOVAKIA: THE DOCUMENTS OF CHARTER '77 1977 - 1982

Washington, D.C.

July, 1982

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FOREWORD

The documents in this publication reflect the efforts of Czechoslovak citizens to express their opinions on issues of importance to them and on rights guaranteed to them under Czechoslovak law, the Helsinki Final Act, and other international agreements. In Principle VII of the Helsinki Final Act, the participating States confirmed the "right of the individual to know and act upon his rights." They also agreed to "promote and encourage the effective exercise of civil, political, economic, social, cultural and other rights and freedoms all of which derive from the inherent dignity of the human person..." The signatories further pledged to "recognize and respect the freedom of the individual to profess and practice, alone or in community with others, religion or belief acting in accordance with the dictates of his own conscience."

Sadly, these noble words ring hollow in Czechoslovakia, one of the 35 signatories to the Helsinki Final Act. In an effort to improve their country's adherence to the principles and spirit of the Helsinki document during the last five years, over 1,000 Czechoslovak citizens -- workers, scholars, clergymen, professionals, students, government employees, scientists and others -- have affixed their names to the manifesto of human rights known as Charter 77. Many have also worked actively with VONS -- the Committee for the Defense of the Unjustly Persecuted -- to report and document violations of basic human freedoms. While in most signatory countries these efforts on behalf of human rights would be applauded and rewarded, in Czechoslovakia both signers of Charter 77 and members of VONS have fallen victim to unrelenting government repression.

Charter 77 clearly emphasizes that its aim is not to change the existing social system, but simply to demonstrate the need for "observance of laws" -- both domestic and international -- by the Czechoslovak authorities. As an example of this commitment to international law and other agreements, Charter 77 called upon the Czechoslovak delegation to the Madrid Meeting of the Conference on Security and Cooperation in Europe to honor its word and implement all the provisions of the Helsinki Final Act, including Principle VII. The constant surveillance, house searches, detentions, arrests, beatings and terms of imprisonment to which these courageous men and women are subjected are difficult to reconcile with the statements attesting to full implementation presented by the Czechoslovak delegations to both the Belgrade and Madrid review meetings.

In October, 1979, six Charter 77 signatories were sentenced to prison terms ranging from two to five years for their activities. That travesty of justice was the culmination of a year-long crackdown on individuals who publicly sought to encourage their government's compliance with the standards set by Helsinki. Four of the six are still imprisoned: Vaclav Havel (sentenced to 4 1/2 years); Petr Uhl (5 years); Vaclav Benda (4 years); and Jiri Dienstbier (3 years).

In May of 1981, the Czechoslovak government once again spread fear throughout the country with a wave of mass arrests and detentions of Charter 77 signatories and VONS members. Seven human rights activists -- Eva Kanturkova, Karel Kyncl, Jan Mlynarik, Jan Ruml, Jiri Ruml, Jirina Siklova and Milan Simecka -- were arrested on charges of subversion and collusion with a foreign power and placed in pretrial detention where they remained for nearly a year. All were released by June, 1982 although the charges against them have not been dropped. An additional ten were indicted on the same charges but were not detained beyond the original questioning period. They include Jiri Hajek, Ivan Havel, Olga Havlova, Karel Holomek, Jozef Jablonicky, Zdenek Jicinsky, Mojmir Kiansky, Miroslav Kusy, Jaroslav Meznik and Jiri Muller.

The Commission receives extensive documentation of events in Czechoslovakia from various sources. It is our intent to publicize the writings of Czechoslovak citizens that reach us in order to highlight the gross disparity between the actions of alleged "criminals" and the reaction of their government. Why citizens concerned with such issues as the safe operation of nuclear power plants, the inability to practice religion freely, discrimination in employment, inhumane prison conditions and the loss of social, political and economic rights, should be harassed, imprisoned or beaten to death is of deep concern to the United States and to others who believed the signing of the Helsinki Final Act would serve to guarantee the peaceful and lawful expression of views in the exercise of human rights.

This compilation begins with a collection of five letters by Charter 77 and other human rights activists addressed to Dr. Gustav Husak, the President of Czechoslovakia and to the Madrid review conference. We have included these letters because they give a vivid, broad view of the extent of human rights and other abuses currently taking place in Czechoslovakia and demonstrate the close links between the goals and purpose of the CSCE process and the activity of Charter 77.

The second section contains all of the numbered Charter documents dealing with aspects of the regimes' treatment of its own citizens issued from 1977-79. Not included are those which merely list new Charter signatories. After 1979, due to increased harassment by the regime, the Charter ceased to issue lengthy numbered documents but continued to release short bulletins and letters on specific human rights-related issues. These bulletins are not included in this compilation (with the exception of the five letters in Section I). Two of the documents describing specific cases -- #6 and #19 -- have been updated as much as possible. The other issue-oriented documents, despite having been released 3-5 years ago, describe conditions which are still prevalent today.

Beginning in 1982, with the selection of three new Charter spokespersons and the adoption of a more activist profile, the Charter once again began to number its documents, which have dealt with issues ranging from solidarity with the people of Poland to the status of religious liberty in Czechoslovakia. The numbering system has been resumed due to recent efforts to circulate bogus documents in the name of Charter 77. Those documents of the first 19 issued in 1982 dealing specifically with conditions in Czechoslovakia are found in the last section of this compilation.

The words, thoughts, and beliefs of the authors in this collection will stand on their own merit. The U.S. Commission on Security and Cooperation in Europe publishes the collection in dedication to those who have already suffered for their beliefs and to those who -- despite the risk of suffering -- are still willing to fight for those fundamental freedoms guaranteed to us all.

Sincerely,

DANTE B. FASCELL
Chairman

ROBERT DOLE
Co-Chairman

Acknowledgements

The Commission wishes to acknowledge with gratitude the contributions to this volume by several individuals and organizations.

For her indispensable role in securing all the necessary documents and for her help in compiling and translating the voluminous material in this volume, the Commission is indebted to Mrs. Anna Faltus of the Czechoslovak National Council of America. It is primarily her hard work and dedication that has made this compilation possible.

For the introductory essay on Charter 77 entitled, "In Praise of Samizdat," we wish to thank Professor H. Gordon Skilling of the Department of Political Economy of the University of Toronto.

The Commission is also grateful to several other individuals and organizations for advice, editorial assistance and translation services. Documents included in this compilation were supplied by Amnesty International, the Czechoslovak National Council of America, the Council of Free Czechoslovakia and the International Committee for the Support of Charter 77 in Czechoslovakia. The Czechoslovak National Council of America and the Czechoslovak American Education Council provided funds for the translation of several of the documents. Mr. Jan Krc and Ms. Alena Prazak in addition to Mrs. Faltus provided translations from the Czechoslovak source material.

INTRODUCTION

IN PRAISE OF SAMIZDAT

> "Thanks to Charter 77 political samizdat has spread widely among us. It is a medium of communication which, in comparison with the fantastically effective rotary presses and color television seems meager. In fact, it is an unusually powerful force, and indestructible power... It is written only by someone who has something to say... When I take it in my hand, I know that it cost someone a good deal to write it -- without an honorarium and at no little risk... And it cost someone to devote his time and energy to copying it. This is something I cannot say of any newspaper, any journal, or any broadcast."[1]

CHARTER 77 NUMBERED DOCUMENTS

In communist East Europe, especially in the Soviet Union, Poland and Czechoslovakia, censorship and the denial of the right of free expression and of a free press have given rise to the phenomenon of samizdat. This expressive Russian acronym, an abbreviation of words that may be translated as "self-publication," is used to describe materials produced by individuals and groups, usually in typewritten form. These "home-made"[2] publications are written, copied and circulated by and among those who wish to enjoy a source of information and of ideas other than those of the official censored press, other mass media and publishing houses.

Such typed materials were produced and circulated long before Charter 77 -- even during the Stalinist fifties, and still more so in the sixties and the early seventies. Since the issuance of the Charter in January 1977, there has been a spate of such activity by individuals and groups, and the flood is continuing in spite of repressive measures taken against it. It may be roughly estimated that well over 1,000 items have passed from hand to hand in Czechoslovakia and have been sent abroad. Customarily the typewriter, using as many carbon copies as feasible, has been the means of production, since Xerox and mimeographing machines are not readily accessible. Moreover, the use of such techniques, as well as the printing press, are regarded as more likely to result in arrest and imprisonment for illegal publication.

This constitutes "a parallel information system," in the words of Dr. Vilem Precan, who possesses a rich archive of Czechoslovak samizdat and who has published several collections of these materials.[3] This treasury included not only materials authorized and distributed by Charter 77 itself, but also the writings of individuals and groups of persons, for whom Charter 77 has been a catalyst of independent expression in the form of open letters, appeals, declarations, essays, feuilletons, poems, plays, books and periodicals.[4]

The translations given in this volume represent only a part of the "authorized" Charter 77 "publications," i.e. materials signed and thus legitimated by those who have been "spokesmen" of the Charter at any given time. In addition to these numbered documents, the spokesmen have issued many other types of material, such as communiques, declarations and appeals, or letters to the Czechoslovak authorities and to persons or institutions abroad. The signature of the spokesmen confirms their authenticity and their accurate expression of the Charter's point of view (with exceptions to be noted below). These documents are usually circulated separately, and in addition are published in the bulletin, Informace o Charte 77 (Information on Charter 77) which is issued every three weeks in typewritten form by a group of Chartists.

When Charter 77 was first formulated, its initiators planned to issue four major documents on human rights (the right to education and to work, and freedom of belief and of expression) for transmission to the Belgrade Conference which was to meet in the fall of the year. In the four years since then, Charter spokesmen published a total of twenty-eight numbered documents, most of which are given below. The rest (omitted here) contained the lists of signatories (Nos. 3, 8, 13, 14, 17, 26, 29, 47 and 48). The documents include reports on the current situation (Nos. 2, 3, 6 and 10). More than half, including the initial Declaration, were studies of those areas of life in which rights, guaranteed by the United Nations Covenants on Human Rights and confirmed in the Helsinki Final Act, had been restricted or denied entirely. They thus provided evidence of the violations of human rights in Czechoslovakia and in some cases suggested ways in which these ills could be corrected or eliminated. The information offered was often used by foreign mass media, by scholars and writers, and in some cases by foreign governments and by international institutions, such as the International Labor Organization.

One should not minimize the difficulties under which this samizdat material was produced. To begin with, it is usually composed after an exhausting day of manual or menial labor, perhaps late at night when the family has retired or early in the morning. The preparation of the documents is not easy since the authors are denied the right to use libraries or research institutes, have only random access to foreign news from radio,

television and the occasional foreign newspaper, and are often under continuous police surveillance. This made it difficult for a group to meet to discuss the document or even to secure the approval of statements by the spokesmen or other Chartists who had to be consulted.

The difficulties facing these "pre-Gutenberg scribes," has been well described by Petr Pithart.

> When the work is finished it is copied by others, once again in their spare time and with no assistance from either the mail or the telephone, it is passed on to a few friends and acquaintances, and thus ultimately, to hundreds and perhaps even thousands of readers. All of them share the additional worry of being possibly summoned to confess whether they have read it, from whom they received it and to whom they lent it, who talked them into doing it and who paid them for doing it, and how much... Thus, entirely through the dedicated effort and expense of the people addressed, a work is published which cannot possibly lie idle, unwanted and superfluous. Are these circumstances really abnormal, when the extent to which the written word gets circulated depends upon nothing more than the urgency of its message, moderated, let us admit, by the author's fear of trouble? How difficult and exhausting it all is![2]

During the periodic bouts of intra-Chartist discussion of the purposes and methods of Charter activity, the documents and the manner of their preparation were subjected to examination and sometimes to criticism. Some Chartists felt that Charter 77 was focussing too much on this verbal kind of activity and that many of its documents were too legalistic and did not deal with pressing problems of daily life. Specific documents were criticized as weak, for example the one on freedom of religious belief (No. 9) which had been watered down for the sake of agreement and was not as strong as statements issued independently by groups of Chartist Catholics and Protestants. It was also felt that more people should participate in the preparation of the documents and that the latter should deal with a wider range of problems, likely to awaken interest among average persons.

The vigorous discussion in 1978 culminated in a general consensus on Charter tactics, or at least a compromise among differing viewpoints. A "document on documents," as No. 21 (see below) was called, provided that documents would continue to be issued by the spokesmen but would be considered a basis for discussion rather than the expression of an agreed viewpoint of Charter 77. It was hoped that many more persons, especially those with expert knowledge, would be drawn into the work of preparation and that their names would necessarily be

divulged. In this spirit a number of documents were published, including No. 22 on nuclear accidents, No. 23 on discrimination against gypsies, No. 24 on impediments to travel abroad, and No. 27 on consumers' problems. The latter, in May 1979, and a supplement to No. 16 on imprisonment and prisons, in November 1979, were the latest, and perhaps the last, substantive numbered documents of this kind. During 1980 no others appeared, although the spokesmen did release a number of studies as communiques or announcements, including those on the law on the SNB (Corps of National Security), prison conditions, freedom to travel, problems of pensioners, discrimination in employment and the Madrid conference. This shift of emphasis away from numbered documents was perhaps the result of increasing regime harassment, including the imprisonment of outstanding Chartists for long terms, and the growing conviction that other matters required the attention of those Chartists who remained free.

What Milan Simecka has written of "home-made books," applies equally to the corpus of authorized Charter 77 materials, including the documents given below:

> "Concealed in attics and in various absurd hiding places, they (the home-made books) are passed secretly from hand to hand. Some of them are in safes, secured with ridiculous bits of string and plasticine. Some of them have been paid for dearly, by imprisonment, humiliation and anxiety. But one thing is certain: whatever the future may bring, it will be these home-made books which will provide a testimony of the time in which we live, for the language which sounds like falling gravel will not interest anyone."[5]

Toronto, Canada — H. Gordon Skilling

Footnotes

1. Josef Strach (pseudon.), 'Chvala samizdatu' (In Praise of Samizdat) April 1977, given in Czech, Listy (Rome), Vol. VII, No. 3-4, July 1977.

2. Milan Simecka, 'Knihy ne-knihy' (Bratislava, 20 February 1979), published in English under the title 'Home-Made Books,' Index on Censorship, Vol. 8, No. 5, Sept.-Oct. 1979, pp.24-25.

3. Vilem Precan, Kniha Charty: Hlasy z domova 1976-77 (Book of the Charter, Voices from the Homeland, 1976-77, Cologne, 1977) and Krestane a Charta '77 (Christians and Charter 77, Cologne, 1980).

4. For full discussion of this material and a list of all authorized Charter 77 documents see H. Gordon Skilling, Charter 77 and Human Rights in Czechoslovakia (London, 1981), Chap. V, VI and Appendix I.

5. Petr Pithart, 'Pruklepovy papir bily 50 gr/m^2 (Onion-skin paper, white, 50 gm/m^2) published in Czech in Spektrum (Index on Censorship, London, 1978).

6. Simecka, 'Home-Made Books,' cited above.

SECTION I

LETTERS SENT TO THE MADRID CONFERENCE AND TO PRESIDENT HUSAK

CHARTER 77 LETTER TO DR. GUSTAV HUSAK, PRESIDENT OF THE CZECHOSLOVAK SOCIALIST REPUBLIC

Mr. President:

At present, preparatory negotiations are under way for the Madrid review conference of states that signed the Final Act of the Conference on Security and Cooperation in Europe, on August 1, 1975. The conference will review the extent of implementation by these states of the principles and obligations imposed by this historic document. Furthermore, it will consider additional measures aimed at strengthening the process of lessening international tensions which received a powerful impulse by the signing of the Final Act.

We are among those who take seriously the principles of this document and, in accordance with the statements you made on several occasions as its signatory, we consider the implementation of its principles not exclusively a matter for the governments, but of whole nations and of all citizens. Therefore, we welcome the assurance of responsible authorities expressing the interest of our government in thorough preparations for and constructive proceedings of the Madrid conference which should help to improve relations among states and nations, strengthen security and rights of their citizens, and avert the danger of a confrontation, as well as of a return to the atmosphere of cold war. We agree with those parts of the May declaration by the Warsaw Pact states - of which you are a signatory - emphasizing strict implementation of all provisions of the Final Act, especially of those principles which the participating governments pledged to follow as guidance governing relations among themselves and toward their citizens, as explicitly stated in the Final Act and confirmed in this declaration. The respect for human rights and fundamental freedoms is explicitly and forcefully expressed in the Final Act as one of the basic principles and conditions of genuine peaceful coexistence and cooperation and is of equal importance with political, economic, and military prerequisites or considerations of international law. We believe that this is precisely one of the great contributions of the Final Act for a peaceful development of international relations and social progress in general.

However, we are equally concerned that the Madrid negotiations achieve progress in military matters, in reducing the burden of armaments and in lessening the danger of conflicts. As ordinary citizens, we are hardly in a position to voice our opinion of concrete measures in this field, since it requires knowledge of often complex technical problems, some even protected with understandable secrecy. We can only express our sympathy with demands that such measures be effective and equally just for all participants, without unilateral advantages for any one of them.

We would welcome a positive contribution by Czechoslovakia to negotiations concerned with the problems of human rights and fundamental freedoms, and of the so-called basket Three in general. This is a matter of internal relationship between the authorities and a citizen. However, if certain norms of this relationship become the subject of an international treaty, then automatically the implementation of these norms (the Final Act specifically mentions the binding nature of international Covenants on human rights which you have also ratified and arranged to come into force in 1976) becomes an international issue and a discussion of it on an international level cannot be considered as interference in the internal affairs of any state. We would, of course, be pleased if such a discussion would proceed in a constructive manner, free of polemics of the cold war era. And we particularly hope that such polemics will not be caused by acts perpetrated against citizens by the authorities in our country, acts which clearly violate provisions of the international covenants on human rights, the binding nature of which has been solemnly embodied in the Final Act and which, as an integral part of our legal system, must guide the interpretation and application of other norms relating to the rights and duties of citizens.

As participants in citizens' initiatives, based on explicit provisions of the Final Act and on Article 17 of the Constitution of our Republic, we have since the beginning of 1977 repeatedly brought to the attention of the authorities of our state various concrete situations and cases conflicting with the principles and obligations of the Final Act and international covenants, now an integral part of our legal system. The usual reaction was yet another, even more blatant violation, including police harassment and trials which were so flagrantly contrary to the international obligations undertaken by you that they provoked widespread international reaction, in particular in progressive European public opinion committed to peaceful co-existence.

This is precisely why we regard it as our civic duty to draw your attention to the probability that these acts committed by some organs of our state, flagrantly violating these obligations, are generating polemics not conducive to a constructive discussion of Principle VII of the Final Act. We believe that such polemics can be prevented only if the real causes are eliminated or at least restrained. We, therefore, submit for your consideration the following:

1. As President of the CSSR, you could use your authority and grant full pardon to the unjustly condemned, J. Sabata, V. Benda, O. Bednarova, J. Dienstbier, V. Havel, P. Uhl, A. Cerny, J. Savrda, P. Cibulka and others, and expunge their convictions which are contrary to provisions of the international covenants on

civil and political rights which our government has ratified. These convictions, therefore, are also contrary to our Constitution which must now be interpreted within the context of these covenants;

2. You should order an immediate stop to all criminal proceedings against Rudolf Battek, Karel Soukup and others, whose cases we could present to you with detailed documentation;

3. You should initiate a thorough re-examination of those components of our legal system - especially of the Penal Code and of the law on the SNB (organs of national security) - which do not conform to the provisions of the international human rights covenants or to the obligations undertaken by you in Helsinki, as expressed in Principle VII of the Final Act. We believe that merely initiating such a re-examination - as requested in concrete proposals in Charter 77 Document 19 - would contribute to a more constructive atmosphere surrounding debate of this point in Madrid. Needless to say, the spokespersons and legal experts of Charter 77, as well as its numerous friends, are willing to assist such an action if undertaken in the spirit of genuine implementation of the principles and obligations embodied in the Final Act. We are also ready to submit additional documentation focusing on existing discrepancies between the laws and practice, on one hand, and the principles and obligations of the Final Act, on the other. These proposals and initiatives have one purpose only: to eliminate these discrepancies;

4. It would also contribute to the creation of a constructive atmosphere if the debate on Principle VII of the Final Act and on basket III in general focused on reaching an agreement stipulating that the participating states would bring their laws and legal practice, especially police procedures, into conformity with Principle VII and the international treaties mentioned in it, as well as with the Universal Declaration of Human Rights. A special coordinating body should be established for this purpose, analogous to the U.N. Human Rights Commission (or, this Commission could be asked for assistance in this matter). It would enhance the international reputation of our country if the Czechoslovak delegation to the Madrid conference submitted this proposal;

5. An important criterion for assessing the fulfillment of the principles and obligations of the Final Act is the behavior of state authorities toward citizens' monitoring initiatives. Therefore, the constructive atmosphere of the Madrid negotiations would be enhanced by an agreement giving legal recognition and full support to such initiatives by the participating governments. A way should be found also to link the concrete activities in basket III with these citizens' monitoring initiatives (perhaps

similar to the relationship between the U.N. Economic and Social Council and the non-governmental organizations). In our opinion, an initiative by the Czechoslovak delegation in this matter would also enhance the authority of Czechoslovakia at this conference.

We would be glad, Mr. President, if you received and considered these proposals in the spirit in which they are submitted. We believe that an understanding of their purposes would contribute to the implementation of the principles and obligations of the Final Act; to the improvement in mutual trust among states; to increased confidence of our citizens toward their government, and to the advancement of the cause of peace in Europe.

Unfortunately, we are forced to add that, in connection with the preparation of this letter, we - together with some of our friends - were interrogated in recent weeks and some of us were even detained for 48 hours by the police, without valid reason and contrary to our laws. We were suspected of acts and intentions which run completely counter to the purposes of this letter as an impartial reading of its text would convincingly prove.

Marie Hromadkova
Milos Rejchert
spokespersons of Charter 77

Prague, September 17, 1980

Text of the letter sent to the delegates of the Madrid Conference by Dr. Vaclav Benda, Jiri Dienstbier and Vaclav Havel from their prison in Czechoslovakia

We are addressing the delegates to the Madrid Conference from a Czechoslovak prison, to which we were sentenced for participating in the Czechoslovak human rights movement Charter 77 and for our work in the Committee for the Defense of the Unjustly Persecuted (VONS) in the hope that the discussions and proceedings of the Conference will really contribute to the relaxation of international tensions and assist in averting war and in creating a premise for the beginning of real discussions of disarmament.

On our part, we would like to stress, that through our work, which has been directed primarily at the cultural and scientific areas - which naturally bind all segments of society as well as all nations and states - we tried to assist in keeping peace and stability in Europe and thus to preserve peaceful understanding in a world really threatened with self-destruction. Our participation in the movement Charter 77 and our work in VONS was and is entirely in harmony with the Final Act of the Helsinki Conference, and, as is evident from the text of Charter 77, the creation of this movement concerning human rights was actually motivated by the Final Act.

Just as the delegates to the Helsinki Conference, we also consider the Final Act to be an integral unit, whose individual sections can neither be given special prominence nor can they be suppressed. We are convinced that real progress in the discussions on relaxation of tensions can be achieved only when relaxation is achieved in the area of human and civil rights and freedoms. Political discrimination against citizens in any country, retrenchment of democratic principles, monopolization of information sources and the media, social discrimination, harassment and persecution of non-conformist citizens, suppression of religious freedoms and expressions of freedom of conscience, subordination of arts and sciences to utilitarian ideological principles all provoke tension in society and strengthen the repressive functions of the state.

Representatives of those state systems, in which uncontrolled police and other repressive organs grow stronger or in which they develop, are then, in their nervousness unable to overcome fears for their own positions of power. Thus the tensions in international relations assist them, in certain circumstances, to justify repressive actions against all those who take their propagandist slogans seriously and who insist they they be translated into actions.

We feel, therefore, that in the interest of the relaxation of international tension, the discussions at the Madrid Conference should be directed towards the question of human and civil rights as much as possible. We also feel that it would serve the goals of the Conference, if the delegates would consider the possibility of determining principles according to which the signatories of the Helsinki Final Act would be obligated to submit lists of their political prisoners and to establish a commission which would examine the justification for the imprisonment of these political prisoners. This would be done from the standpoint of the laws of the particular country as well as from the standpoint of the Helsinki Final Act and the International Covenants on Civil and Political Rights. The commission would also examine the living conditions of the political prisoners and their health. We are convinced that primarily through democratization and humanization of life in all countries, it will be possible to achieve the goal which the Madrid Conference is striving for.

Dr. Vaclav Benda Jiri Dienstbier Vaclav Havel

December, 1980

NVU Hermanice, PS 2, PU 13, PSC 713 02, Ostrava 13

LETTER TO CSCE MADRID CONFERENCE FROM MIROV PRISONERS

"As political prisoners of a socialist state we are forced to point out that Czechoslovak representatives in Madrid are lying when they claim that documentation and arguments presented by others with regard to human rights violations in Czechoslovakia are pure fabrications. We ourselves are testimony to judicial discrimination in prisons and are an embarrassment to justice in a state that does not observe human rights in any way. As long as agreements, already accepted, are not being implemented, it is not possible to agree to conclude new agreements. We were sentenced because we raised the question of violations of human rights. Some of us were sentenced under the impact of a spy-scare, while others were sentenced because they returned home to their families from abroad - even though they were promised that they would not be punished.

"These facts alone document the approach to a human being, as well as to the conditions of the Czechoslovak prison system. None of us are enemies of our people; we are an inconvenience to those who unjustly govern in the name of the people and who fear for their position of power. Many cases present enough documentation regarding the violation of the judicial process, as well as the impossibility of correcting the situation. Czechoslovak official agencies are not interested in correcting the situation because they are afraid of the shame it would bring upon them, which would discredit them completely. However, they do not seem to realize that these conditions will, in themselves, cause a crisis in society sooner or later.

"Today, only a few citizens believe in the sort of ideological purity and humanity which is being presented to them by the media. They are being confronted at every step with the contradiction of words with reality. The same applies to equality of citizens before the law. As long as this state of affairs prevails, no citizen can be certain that his human rights will be observed and that he will not be deprived of his property and employment. This approach to a human being is in direct violation of accepted obligations in this area of human rights. Instead of implementing accepted agreements, the regime points 'elsewhere' and calls facts fabrications, in order to divert attention.

"We, therefore, confirm the rightfulness of the charges brought up in Madrid and we request that the participants of the Conference, as well as the United Nations and world public opinion, condemn these actions and demand an immediate release of political prisoners in Czechoslovakia and strict observance of civil and human rights."

Political prisoners in NVÚ, Mirov.

January, 1981.

LETTER FROM CHARTER 77
TO THE
PRESIDENT OF THE CSSR, DR. GUSTAV HUSAK

Mr. President!

On September 17, 1980, Charter 77 spokesmen sent you a letter, which stated their stand with regard to the Conference on Security and Cooperation going on in Madrid and to the discussions that have taken - and will take place. They offered their suggestions and recommendations, which, in their view, could assist constructive discussions and lead to the acceptance of the necessary conclusions. They did not receive an answer to this letter nor did any of our officials express their stand - directly or indirectly - with regard to the questions raised in the letter.

We have, therefore, read with great interest the January 27, 1981 interview of a representative of the CTK (news agency) with the Chief of the Czechoslovak delegation to the second phase of the Madrid Conference which is still in progress in Madrid. We have noted, with some satisfaction, that among the five proposals submitted by our delegation, is a request for the participating states to ratify the International Covenants on Human Rights. We take this as a confirmation of the stand embodied in the Final Act, which you signed, and which is also expressed in the aforementioned letter, namely, that respect for human rights and fundamental freedoms is one of the basic premises for peaceful coexistence and cooperation among nations. We also take this as confirmation that this question is a legitimate subject for international discussion, regardless of efforts to claim that human rights problems are the internal affair of each state or that any state can deal with its own citizens as it sees fit.

Even if most of the participating states have ratified the Covenants, it is necessary that they be ratified by all states. However, what is most important is to make certain that ratification of the documents is not just an empty formality, which would have no concrete meaning in any of the participating states. You yourself have, in 1976, signed, as a Secretary General of the Czechoslovak Communist Party, the Final Document of the Madrid Conference of Communist and Workers Parties which contains a call for the ratification as well as implementation of both International Covenants by all European states. We are, therefore, of the opinion that the proposal of the Czechoslovak delegation should not be restricted only to the ratification of these documents thereby weakening what has already been formulated in Helsinki, what is already embodied in these International Covenants and that which was, also under your signature, presented to the European and world public. We feel that, on the contrary, the request for implementation of the principles embodied in the Covenants in everyday life inside the signatory states should be stressed and finalized. We feel, therefore, that it is our

duty to repeat what Charter 77 spokesmen have submitted to you for consideration in their letter sent to you in September of last year:

To expand and to define with more precision the Czechoslovak proposal in such a way that the participating states would agree to bring into harmony their laws - especially their legal and police practice - with the International Covenants on human rights and to establish, under the auspices of the Conference on Security and Cooperation in Europe, a coordinating commission on human rights similar to the one established with the United Nations. This would also correspond with Article 2 of the Covenant on Civil and Political Rights. There is no doubt that the effectiveness and prestige of such a Czechoslovak initiative would be enhanced if our highest organs would accept other suggestions submitted by Charter 77 in its letter of September 17, 1980.

To review those parts of our legal system that are not in conformity with provisions of the International Covenants on Human Rights, especially the Penal Code and the Law on SNB (security police).

To enact new laws which would be in accord with the provisions of the Covenants (for example, the law concerning high schools, enacted in 1980, which was publicized after the ratification of the Helsinki Agreement, is in direct contradiction with the aforementioned Covenants).

To release from prison persons who are being persecuted or who have been sentenced because they brought to the attention of the authorities cases of court and administrative practices which were in violation of the provisions of both Covenants; to cease criminal proceedings against them and not to initiate new ones - in short, to annul sentences that were meted out. (Vaclav Benda, Rudolf Battek, Otta Bednarova, Jarmila Belikova, Albert Cerny, Jiri Dienstbier, Vaclav Havel, Ladislav Lis, Vaclav Maly, Jan Litomisky, Dana Nemcova, Jiri Nemec, Petr Uhl and others.)

To give legal status to civic initiatives (groups) which are striving to remove contradictions between the provisions of the Covenants and our legal system, as well as the legal and especially police practices of the organs of our Republic.

We are convinced that such steps would assist in bringing about fruitful discussions concerning human rights at the Madrid Conference. They would also enhance the reputation of our Republic and really strengthen security and cooperation in Europe.

Vaclav Maly, Charter 77 spokesman
Dr.Jaroslav Sabata, Charter 77 spokesman
prof.MUDr.Bedrich Placak, Charter 77 spokesman

Prague, February 22, 1981

TO THE PARTICIPANTS OF THE CONFERENCE OF THE SIGNATORIES OF THE FINAL ACT - THE CONFERENCE ON SECURITY AND COOPERATION IN EUROPE - MADRID:

Ladies and Gentlemen:

You have already, within the framework of your deliberations, taken notice of the latest repressive measures of the Czechoslovak state organs against defenders of human rights in our country. We want to thank you for this attention and we hope and believe that you will continue to be interested in further developments in this regard in our country. We would like to inform you, in more detail, about this repressive action and we are, therefore, enclosing our bulletin which deals with this question.

To properly evaluate the consequences and the extent of this latest police action geared probably for the massive liquidation of all expressions of citizens' disagreements is very difficult, especially now, when national culture is in danger of being destroyed and when citizens are upset because of the hopelessness of the situation in which they find themselves.

It is quite evident from the actions of the authorities that every intellectual and special-interest contact with someone abroad, which is not conducted under the watchful eye of the authorities and thus the police organs, is - regardless of its purpose and merit - viewed as a criminal offense under para. 98 of the Penal Code (subversion of the Republic). This trend has also made its mark in the new commentary to the Penal Code, published recently, according to which a criminal offense under para. 98 has been made, for example, by a mere complaint of a Czechoslovak citizen published abroad addressed to the state organs or to the courts, or, where there is the mere chance that it might be published abroad, a distinct possibility when a citizen is trying to act openly, as is his right as far as relations between a citizen and the state are concerned. However, the present situation in Czechoslovakia does not permit the publication of citizens' complaints. There has not been even one case where the Czechoslovak media, which is a state monopoly, would publish even one suggestion, one complaint against the actions of the police, or one Charter 77 document (even though Charter 77 documents and publications of VONS are being sent to the proper authorities and to the editors of the newspapers). Nor has there been one literary work, one expert study or historical or legal analysis which does not blindly conform with the official line - which is, for any clear-thinking human being who is serious about his responsibilities, absolutely unacceptable.

This unnatural situation, understandably, makes platforms for publicity and criticism located abroad more important, due to their role in assisting in some way, to maintain a place for the free exchange of ideas. Their activity has corresponded with the general trend of free distribution and exchange of information, as declared in the Final Act of the Conference on Security and Cooperation in Europe in Helsinki and has been of vital importance for Czechoslovak cultural awareness, which is being crippled by unnatural administrative actions. Responsibility for such actions lies squarely on the shoulders of those who initiated them. They have continued, not accidently, during the Madrid conference where you have been trying, with great patience and perseverance, to prepare a concluding document. These actions show clearly, what value the Czechoslovak authorities place on their international obligations, and how they value international activity to bring about full awareness of basic human rights.

On May 29th, it will be two years since dozens of members of our Committee were arrested. Four of them are still unjustly imprisoned. Another member, Rudolf Battek, was arrested last year. He has now, for 11 months, been in detention awaiting trial. And in February of this year, still another member, Jan Litomisky, was arrested and is still being detained. While these repressive actions were being undertaken by the authorities, criminal proceedings were initiated against 16 citizens. Most of these criminal proceedings have been initiated because of the beliefs of the persons concerned. These facts speak for themselves. We are not even naming all of those who are being unjustly persecuted, otherwise, our list would be much, much longer.

Prague, May 15, 1981

Committee for the Defense of the Unjustly Persecuted; Czechoslovak League for Human Rights; member, International Federation for Human Rights.

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<u>Bulletin of VONS No. 250 (Criminal Proceedings for Subversion of the Republic).</u>

Between May 6th and May 12th, 1981, the police in Prague, Brno and Bratislava initiated mass arrests of citizens, mostly Charter 77 signatories. The authorities detained about 30 persons whose apartments, homes or places of employment were searched. During these searches many things were confiscated, such as literary texts, personal correspondence and notes and even books which were published in the Czechoslovak state publishing houses. The reasons for these massive repressive actions was the detention of two French citizens, the lawyer Gilles Thonon and the student Francoise Anis, which occurred at the Austrian border on April 27, 1981.

Some of those who were unjustly detained, were released after 48 or 96 hours - such as Dr. Zbynek Fiser (pen name Egon Bondy); poet, author, philosopher and worker Jan Bednar; poet Karel Siktanc; priest Jan Simsa; sociologist Jaroslav Meznik; Olga Havlova; journalist Vera Stovickova; historian Milan Otahal St.; author Karel Pecka; worker Jiri Bednar and Zina Freundova.

Some others were detained, were also released from prison, but were charged with the criminal offense of subversion under para. 98/1-2, a, b of the Penal Code (subversion of the Republic in conjunction with a foreign power - and on a greater scale) and they face up to 10 years of imprisonment (such as prof. Dr. Jiri Hajek, politician; prof. Dr. Zdenek Jicinsky, lawyer; computer expert Ivan Havel; historian Dr. Jozef Jablonicky; Karel Holomek, former chairman of the Association of Romans, which was disbanded on the orders of the state; author Mojmir Klansky.)

The most significant aspect of the current wave of repression is, however, that according to our information - which may not be complete - the following 12 citizens remain in detention: student of Law Francoise Anis (24 years old); lawyer Gilles Thonon (29 years old); author Eva Kanturkova, Charter 77 signatory (born May 11, 1930, residence Praha 5, Kaveriova 13); sociologist Dr. Jirina Siklova (residence Praha 1, Klimentska 17); journalist Karel Kyncl, Charter 77 signatory (born Jan. 1, 1927, residence Praha 4, Lounskych 12); journalist Jiri Kuml, Charter 77 signatory and member of VONS (born July 8, 1925, residence Praha 10, Kremelska 104); worker Jan Kuml, Charter 77 signatory and member of VONS, as well as member of the collective of Charter 77 spokesmen (born March 5, 1953, residence Praha 10, Kremelska 104); historian prof.Dr. Miroslav Kusy, Charter 77 signatory, member of the collective of Charter 77 spokesmen (born December 1, 1931, residence Bratislava - Trnavka, Slovackeho 21); historian Milan Simecka (born March 6, 1930, residence Bratislava, Prazska 33); worker Jiri Muller, former leader of the student movement, Charter 77 signatory (born December 29, 1943, residence Brno, Chudobova 23); historian Dr. Jan Mlynarik, Charter 77 signatory (born February 11, 1933, residence Praha 1, Nosticova 14); poet Jaromir Horec (born December 18, 1921, residence Praha 4 - Sporilov, Jihozapadni III/14). All these citizens are charged with the criminal offense of subversion under para 98/1-2, a, b of the Penal Code.

Prague, May 15, 1981

Committee for the Defense of the Unjustly Persecuted; Czechoslovak League for Human Rights; member, International Federation for Human Rights.

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P.S. According to information received since the bulletin was written, the two French citizens, Francoise Anis and Gilles Inonon have been released and are back in France. The Czechoslovak authorities have also released prof. Dr. Miroslav Kusy in bratislava and Jiri Muller in brno (as of May 25, 1981). (A.F.)

SECTION II

NUMBERED DOCUMENTS ISSUED BY CHARTER 77 SPOKESMEN

What Charter 77 Is - And What It Is Not

Document No. 1

(Why right is on its side and why no slander or forcible measures will shake it.)

Today's mankind, torn apart by various ideologies, discontented amidst the possibilities of affluence, is longing for a quick solution of problems with new technical recipes. However, this longing also carries with it a dependency on political might and the state. The state appears to be ever more clearly the great factory and supplier of strength, which has at its disposal all the forces which exist - physical and mental.

Thinkers, however, are looking around and observing that it is not as yet possible to technically produce mans' needs - morality, a set of principles for his own internal satisfaction. It is not possible to trust even a habit or to think that a person will do something automatically without the necessary convictions.

In order for mankind to be able to develop and grow in harmony with technical possibilities, in order to harmonize the progress in knowledge with progress in skills, it is necessary for mankind to believe in something "higher," something which will be binding for everyone. In other words, it is necessary to believe in something non-technical - in morality, which would not be used only as a trick but which would be something that is lasting. We cannot, therefore, expect rescue in these things from the state, or from the producing society, nor from might or force.

Those who propagate one government would like for everyone to accept their truths as the only truths, but this is not possible. Our century has given every power base a chance to operate and to show its usefulness. The results are clear as far as the people's wishes are concerned.

Without a moral base, without convictions, which are not triggered by opportunism and by expectations of privileges, even the best technically equipped society cannot function. Morality, however, is not to be used to make society function, it is here to make a human being human.

That is the reason why we feel that the time has come for this simple truth, for these life-long experiences, to penetrate the conscience of all of us. And that time is now. Why?

The idea of human rights is nothing else but the convictions that the whole of society as well as states are being guided by a supreme feeling of morality, that there is something above them which is binding, which is holy, which is untouchable, and to which they are contributing through their endeavors in enacting laws and legal norms.

Such convictions have to live also in the hearts and minds of individuals and thus form the base for the fulfillment of their obligations in private life as well as in employment and public life. Only when in harmony with these convictions can we be certain that people are not acting from fear or because they expect privileges, but that they are acting freely, willingly and responsibly.

These convictions are expressed by Charter 77, which expresses the joy of citizens over the fact that their government (state) through its signature, which guarantees the rights of men and which makes this (document) a part of the Czechoslovak legal system, is aspiring to a higher moral base for everything political and that it is ready to contribute to the implementation of these principles, which express the will of the people.

Charter 77 signatories are of the opinion that this act far exceeds in importance all other international Agreements, which more or less deal with questions of power and opportunism, because it reaches into the area of morality and spiritual values. For the Charter 77 signatories, this and nothing else is the basis for their initiative.

These relationships between the moral area and the state might point to the fact that Charter 77 is not a political act, that it is not in competition with or seeking to interfere in the sphere of any political function. Charter 77 is not a club or an organization - its base is only the individual; moral obligations, ensuing from this association have the same character.

The Charter, however, reminds us that 180 years ago it was established that all moral obligations of men rest on the analysis of what one can call obligations of a man to himself, which include the duty to defend himself against any wrongs suffered by him. This means that Charter 77 signatories are not acting because of some special interests but because of obligations which mean something higher than mere political obligations.

Charter 77 signatories are not claiming any political rights or functions. They do not even wish to be a moral authority or a conscience of society. They are not claiming to be somebody better and they do not even judge anybody. Their only endeavor is to cleanse and strengthen the knowledge that there exists a higher authority, to which individuals in good conscience are obligated, and endorse such with their acceptance of important international documents and Agreements. That the states are motivated not merely by opportunism or political considerations, but that their signature means obligation, that signifies politics is guided by law and not law by politics. This also means that a person not only has a duty to defend himself against any wrongs but that he also has the obligation to inform others of wrongdoings which are being perpetrated anywhere.

It is important for everyone to realize that in order to defend his moral rights, i.e. his obligation to himself and others, it is not necessary to get organized, because the thing that should guide us is respect for a human being as such. Therefore, no individual who is being persecuted should feel isolated and at the mercy of powers that be, if he himself is determined not to resign his duty to defend himself - which is also his duty to the society of which he is a member.

The purpose of Charter 77 is, therefore, a spontaneous solidarity - relieved of all obligations - of all who understand the meaning of moral thinking in a normally functioning society.

We regard this era, which made possible the signing of a declaration of human rights, as a new era in history, an era which is of great importance because it represents a turning point in the thinking of society in its attitude towards itself and others. It is necessary to strive for the goal where respect for something higher will replace fear and opportunism. It is, therefore, necessary to accept in this respect some inconvenience, lack of understanding and some risks.

Prof. Jan Patocka
Charter 77 spokesman

Prague, January 7, 1977

Report On Delivering the Text of Charter 77 to the Czechoslovak Government

Document No. 2

On the morning of January 6, 1977, automobiles of the state security service, in the midst of normal traffic, encircled a car in which authors Vaclav Havel and Ludvik Vaculik as well as actor Pavel Landovsky were on their way to deliver the text of Charter 77 with all its signatures to the government of Czechoslovakia, the Federal Assembly and the news agency CTK, and to mail it to all signatories. All three above-named persons, as well as author Zdenek Urbanek, were subsequently questioned for several hours, although it was very clear from the contents of the envelopes that the action of the STB was inappropriate and unjustified, because Charter 77, as proven by legal expertise, does in no way violate Czechoslovak laws, but, on the contrary, supports them.

The apparatus of the Ministry of Interior of Czechoslovakia has ignored - not for the first time - international agreements as well as laws of its own state. Taking part in the action against citizens of good reputation were dozens of automobiles and entire staffs of investigation officers, technicians and surveillance officers, who the ministry probably would have needed more recently to prevent the hijacking of a Czechoslovak plane.

During the interrogations, the detained persons were filmed by television cameras and photographed like spies, together with the documents which were addressed to the highest state organs. However, the documents were confiscated. The STB also filmed the apartment and the country home of playwright Vaclav Havel despite his emphatic protest - and the home of Zdenek Urbanek. Photographed were, among other items, a collection of foreign publications and various private articles of property. Many items were confiscated, especially books, correspondence, photographs and other personal items. Some items were confiscated during house searches in April of 1975, in order to subsequently blackmail citizens with them.

Among things confiscated from Ludvik Vaculik was the book "Gruppenbild mit Dame" (Group Portrait with Lady) by Heinrich Boell. Other items include some sixty manuscripts bound in linen. Ludvik Vaculik had the manuscript of his own novel, on which he was working, confiscated for the second time.

At Vaclav Havel's home official publications of the American Embassy in Prague were confiscated and filmed. Significantly, the STB also confiscated the recently published official collection of laws containing the texts of the Covenants on Civil Rights.

Detained at the same time and interrogated and subjected to house searches, were author Frantisek Pavlicek and journalist Jan Petranek, both Charter 77 signatories. While the first four were released after midnight on January 7th, and Vaclav Havel was released after his second detainment on January 7th at 10 p.m., the other two were released one day later.

Through its measures and actions, the STB has clearly proven the legitimacy of Charter 77 because civil rights are being violated in Czechoslovakia. The Charter 77 spokesmen pointed out to the Ministry of Interior that the house searches were against the law because no official legal proceedings were initiated - which is required under Czechoslovak law. The filming of persons against their will, as well as their apartments and private property, can be viewed as intimidation according to par. 237 of the Penal Code.

During the entire period of action, the Charter 77 spokesmen and other signatories protested against this arbitrariness. Now they demand that further unlawful action be stopped and the immediate return of all confiscated documents and items.

The spokesmen of Charter 77 - in accordance with Article 19 of the International Covenant on Civil and Political Rights - continue to reserve the right to make public every case of unlawful pressure against the signatories and other citizens. The spokesmen of Charter 77 also declare that the publication of the text of the Charter in foreign countries prior to its delivery to Czechoslovak government authorities is the fault of the Ministry of Interior which prevented its delivery.

The spokesmen also announce that there are an additional forty signatories to the document. Their names, like the names of all further signatories, will not be published, as long as there is no guaranty that the police action of Epiphany Day will not be repeated. These signatories will, however, take part in the work of Charter 77.

The Charter 77 spokesmen also announce that for the same reason, they have chosen three substitute spokesmen. Their names will be published should the first three spokesmen be prevented from carrying out their activities.

The Charter 77 spokesmen are grateful for the manifestation of domestic and international solidarity. However, foreign commentators should note that Charter 77 signatories are not only intellectuals, but also workers and other working people as well as citizens who were not exposed to repression because of events in 1968, but who want to be engaged in this activity out of moral convictions. Charter 77 should, therefore, not be termed a "dissident group," but a citizens' initiative.

Charter 77 believes in issuing statements in order to prevent arbitrary action by the Ministry of Interior - actions, which endanger not only us but a great number of our citizens.

Prof. Dr. Jan Patocka
Spokesman for
Charter 77

Vaclav Havel
Spokesman for
Charter 77

Prof. Dr. Jiri Hajek
Spokesman for
Charter 77

Prague, January 8, 1977

Address to the Presidium of the Federal Assembly, the Government of the CSSR and Press Agencies

Document No. 3

In the Charter 77 Manifesto of January 1, 1977, 242 citizens of our Republic turned to the highest state organs and to the public to inform them of their determination to strive for implementation of the norms of the international covenants on human rights which have become a part of our legal system, as was acknowledged by their promulgation in the Collection of Laws, No. 120/1976. By doing so, these citizens acted in accordance with Articles 28 and 29 of the CSSR Constitution and Article 19 of the International Covenant on Civil and Political Rights.

On the 6th of January, 1977, the Czech police unlawfully detained citizens who were on their way to hand over the document and enclosed explanatory letters to the Supreme Organs of the CSSR. The document was, therefore, subsequently sent to these authorities by post. The only answer until now has been extensive repressive action by the security organs and an offensive and outrageous defamatory campaign against the signatories of Charter 77 in all Czechoslovak information media. The insults, accusations and calumnies used in this campaign have had no analogy in our country since the time of similar campaigns waged in the years of illegal political trials. As in those times a campaign is being organized in places of work, factories, offices, schools and similar institutions, where people are asked, collectively or individually, to condemn something with which they are not even acquainted. Condemnation of Charter 77 is enforced in such a way that refusal to comply means the threat of repercussions. In some places the anti-Charter signature-sheets are presented for signing in an authoritative manner during the payment of wages or on similar occasions. The text of the Charter, however, is kept secret from the people and, as was expressly stated by Rude Pravo on Janurary 15, 1977, it will never be published.

On the night preceding Thursday, January 13, 1977, dozens of signatories were summoned by the police, and in many cases house searches were conducted. Although they were formally questioned as witnesses, they were taken away by police cars at an unnecessarily early hour - between 4-5 a.m. Many of them were treated as potential criminals in a rude and ruthless manner. The spokesmen of Charter 77 were interrogated practically for a whole week, being released only at night. On January 13, the journalist Jiri Lederer was arrested on the basis of a house search, and on January 14, the writer Vaclav Havel, one of the spokesmen of Charter 77, did not return home from his interrogation. On the morning of January 15, his wife was informed in reply to her telephone call that V. Havel "had surrendered to the security police" and that he was being detained for reasons other than Charter 77. On January

15, associate professors of the Pedagogical Faculty, Dr. F. Jiranek and Dr. K. Palous, were dismissed from their posts by decision of the University Senate. The specific reason given was their signing of Charter 77. Many other signatories are expecting dismissal from their jobs for the very same reason.

We believe that all this is sufficient to show how urgent it is for us in this country to deal in a specific manner with problems relating to the exercise of rights, the honouring of which has been pledged by our State in international agreements.

The Charter 77 Manifesto expressly states that this citizens' initiative is not to be interpreted as political activity. Yet the whole campaign against Charter 77 is conducted by means of political propaganda slogans. Reference is made to the counter-revolutionary and anti-socialist aims of Charter 77 and so on. The campaign shows that the Government considers it dangerous to its interests to abide by citizens' rights which it has itself pledged to honour. We believe that it is up to the political organizations, political parties, trade unions, etc. in all European countries to judge for themselves whether or not the requirement to respect civil and political rights is anti-socialist, anti-national and counter-revolutionary. The signatories of Charter 77 hold the view that it is not and cannot be so.

Bound by the responsibility which we have taken on ourselves as spokesmen of Charter 77, we demand:

That all police persecution against the signatories of the Charter 77 Manifesto be stopped and all citizens detained in connection with this Manifesto be released.

That all forms of coercion - in particular, with regard to employment - against citizens who call for the honouring of pledges set forth in international pacts on human rights, be stopped.

That the Czechoslovak people are given truthful information about the contents of the Charter 77 Manifesto and that the organs of political power initiate a dialogue on how to resolve the practical problems arising in Czechoslovakia in connection with the exercise of these rights.

We, on our part, are ready and willing to conduct this diagiogue.

Spokesmen of Charter 77:

Prof. PhDr. Jan Patocka
Prof. JUDr. Jiri Hajek, DrSc.

Prague, 15th January, 1977

Discrimination in Education

Document No. 4

For many years now one of the most burning problems in the area of human rights in Czechoslovakia has been persistent discrimination in the selection of young people for secondary schools and universities. Every year the chance for further education is denied to a large number of young people whose scholastic achievements, qualities of character, interest in education, and good results in entrance examinations have proven them to be suitable for it.

This discrimination has been practiced for a great many years against the children of citizens of many different socially "uncomfortable" categories according to undeclared but strictly administered directives. In this way, contrary to the law but all the more efficiently, they are deprived of many fundamental human rights, among them the right to free education for their children. In earlier times this affected the families of the so-called kulaks, of political prisoners in the various trials of the 1950s, of members of Western armies in the Second World War, of emigres, of those who practiced a religion, etc. At the present time the victims are (on a massive scale) in particular the families of those citizens who in 1968 were actively involved in public, political, scientific and artistic life.

The accusations raised against these citizens cannot be sustained because the democratic principles they were defending are today subscribed to, among others, by the majority of the communist and labor movement. Indeed, in 1968, they were also being furthered by the Czechoslovak Government whose Deputy Prime Ministers were at that time Dr. G. Husak (President of the CSSR and the General Secretary of the CC CPCS) and Dr. L. Strougal (Prime Minister and a member of the Presidium of the CC CPCS). Moreover, the promulgators of democratic principles have never been and could not have been openly prosecuted for this activity, nor could they have been legally convicted. Consequently the discrimination against them is often willful and not infrequently amounts to a settling of old scores. But even provided that these people were criminally prosecuted and convicted, their punishment should not extend to persons who are evidently innocent, viz. their children. Punishment of these children in the most sensitive sphere of their education and preparation for life is not only completely illegal but also contrary to all ideas of a decent and humane society, especially a society which claims to be socialist. It is nothing more than an act of revenge, the bullying and corruption of both parents and teachers as well as of those who are only in an early stage of preparing themselves for life and who are thus being conditioned to become pliable instruments of the state power from their childhood.

Eight years after the declaration of the normalization policy, secondary schools still do not accept children who in 1968 were 7-8 years old, and universities do not accept children who in 1968 were 10-11 years of age if at that time their parents spoke up for the democratization of our public and political life.

The present system of selection for study at secondary schools and universities is not concerned with an objective evaluation of the abilities, talents and prospects of the candidates, nor with the proper utilization, development and dispersal of talent. Its two basic functions are: firstly, to give reward for political "involvement" and conformity; and secondly, to punish parents for their political views if they are not in complete agreement with today's political practice.

Politically motivated discriminatory sanctions thus hit the most sensitive sphere of human relations, those between parents and their children. Both the parents and their children are intimidated into outward obedience and a hypocritical stance. The sanctions deform the characters of both the parents and their children, and those who wield them resemble people who by their behavior can influence the fate of hostages. They force the parents and their children to play out a humiliating comedy for the sake of being given a chance to study.

Discrimination in education, never publicly admitted but all the more actively practiced by the state and the political power-holders, is at variance with the claim that a socialist society holds the capabilities of its citizens in high esteem and offers them every possibility for their development and utilization.

Instead of the gifted and talented, it is often candidates with well below average or even poor scholastic results that are accepted for further study, provided they or their parents demonstrate their political commitment, either real or phoney, and provided they are prepared to accept passively and agree ostensibly with everything the present political leadership is preaching.

A proof of discrimination coupled with patronage can be seen, for instance, in the official directive of the Ministry of Education concerning the selection procedure for the school year 1976-77.

According to this directive, an entrant who has passed his matriculation with honors with grade "one" (On the scale of 1 to 5, "one" being the best, i.e. excellent, and "five" unsatisfactory, i.e. the failing grade) in all subjects, and who has obtained grade one in both the written and oral entrance examination, but who does not fulfill the "class-political criteria," will rank lower in the acceptance scale to an institute of higher education than an entrant whose matriculation results and marks throughout his secondary school only reach the average of 2.7

(i.e. there may be no "ones" and more "threes" than "twos") whose written entrance exam is "unsatisfactory" and the oral only average, if this latter student meets the "class-political criteria."

Such an official Ministry of Education directive does not induce secondary school students to study, to develop their knowledge and to work hard; rather the opposite is true.

The illegality of the entrance procedure is aggravated by other factors:

1) The directives and rules are secret and so they are beyond public control, not to speak of the fact that the absence of information about these rules decreases the chances of the majority of applicants.

2) The whole selection procedure is also secret and not subject to any public control.

3) The number of college places is also not made known and by artificially lowering the number of places available in some subjects (particularly in non-technical fields) the chances of acceptance for politically handicapped children are again decreased. This latter strategy affects the specially gifted in particular, e.g. talented linguists, artists, musicians, etc. It is necessary to bear in mind that for a person to be able to practice a profession gainfully, in a number of fields, talent on its own, even if it is considerable, or skills and good results are not sufficient, according to our laws and the prevailing practice. It is essential to have a certificate (e.g. to be a musician, in the visual arts, and also for literary activities, translating and so on). Of serious relevance here are the repercussions for the life of society as a whole; the community is artificially deprived of a suitably trained intelligentsia in the humanities and arts.

4) In certain fields some courses are being opened secretly; for instance, one year no applications were officially accepted for a "History of Art" course but subsequently the course was suddenly opened and filled exclusively with children, particularly girls, from today's "prominent families."

5) Numerous cases are known of students from these circles being accepted without going through the usual selection procedure.

6) The chances of regular study for politically handicapped youngsters are further diminished by the unjustified patronage of the less gifted but politically "desirable." These students are taking up a number of places, in the first year in particular, and then later, in spite of being granted various further favors, they abandon their studies. This is demonstrated by the high "mortality" rate among first-year students, particularly in those

fields where it is not so easy to bluff one's way through (e.g. medicine, technical subjects). All this represents a squandering of financial and other resources, which is a burden on us all, but at the same time it is one of the ways of limiting the educational opportunities of young people from other categories of the population.

7) All this involves a general degradation of human values in education and it also creates favorable conditions for all kinds of patronage. There are also rumors of bribery. This latter aspect is, of course, very difficult to prove. Those who admit that they have secured a university place for their child by means of a bribe (some of them practically boast of it), simultaneously declare that they will never publicly testify to it. The Ministry of Education, of course, could and should find ways of uncovering and investigating such cases.

The demoralizing consequences of the present system of selection are extremely damaging to the moral profile of the young generation. Young people quickly learn to tell the difference between the high-sounding official political proclamations and reality, which is at variance with them. This concerns not only those who are unjustly discriminated against but also those who are given unfair preference.

In its demoralizing consequences this practice also affects the teachers; because of the enforced attitudes of the students, they cannot adopt a professional educational approach. At the same time they are driven into the same moral dilemma as the parents of the children concerned since failure to respect the aforementioned procedure and instructions would endanger their positions.

Apart from the contribution the current selection practice makes to the devaluation of moral values and to widespread hypocrisy and patronage, it also has grave consequences for standards in secondary schools and universities. It influences the professional standards of the graduates of these schools in their future positions and in practical life. The whole of society is being deprived of creative forces and talent. Such practices have a particularly grave and alarming effect on the economic and cultural development of a small country like ours, poor in raw materials and other extensive sources of growth. Those who are today responsible for husbanding our country's most valuable resource, the creative abilities of the people, should realize what enormous and often irretrieveable losses are being inflicted on our society as a whole.

Those who formulate decisions about the entrance requirements for secondary schools and universities are not only disregarding the solemn international pledges of our highest state functionaries, but they are also gravely violating Czechoslovak legal norms.

As the signatories of Charter 77, we demand:

1) That the educational authorities abrogate all their discriminatory directives, regulations, instructions and the like, relating to the procedure for selecting new students, if these are at variance with the norms of the Conventions on Human Rights, which have been approved by our legislative organs and promulgated, and thus become a part of the Czechoslovak legal code. It is of particular importance to bring into force Article 26 of the Convention on Civil and Political Rights which stipulates that all discrimination will be forbidden by law and everyone will be guaranteed equal and effective protection against discrimination for any reason.

2) That it should be openly announced in the press that the CSSR has carried out the pledge undertaken in accordance with Article 40 of the Convention which calls on all parties to report on measures taken to implement the rights acknowledged in this pact and on the progress which has been achieved in the implementation of these rights within the period of one year from the day they became parties to the pact. The deadline for Czechoslovakia is, therefore, 23rd March, 1977.

3) That an independent commission of inquiry is set up consisting of qualified pedagogues and educationalists who have not been involved in discriminatory practices in the selection procedure, to make an objective analysis of the situation prevailing in the recent past in the selection of new students for secondary schools and universities, and to evaluate its consequences for the educational potential of our nation and for the country's present and future economic, technical, scientific and moral development. This document should be made public.

4) That on the basis of this investigation people who have been discriminated against are given a chance to study.

Charter 77 considers it useful and expedient to collect data on concrete cases of discrimination in the educational sphere and make them known to the responsible political and administrative authorities, with the request that these cases are examined and rectified.

Motivated by their sincere wish to contribute to a solution of this problem in a constructive and positive manner, without setting themselves any other aims or making any claims of a political or other nature, the signatories of the Charter 77 Manifesto consider it their moral and civic duty to offer their help in eliminating discrimination in the selection of students for secondary schools and universities. They consider this document as the first stimulus for an informed approach which can eliminate

the shortcomings of the prevailing system and bring the selection procedures into harmony with the Conventions on Human Rights, legally endorsed by the Czechoslovak State.

Professor Jan Patocka, Ph.D
Professor Jiri Hajek, Ph.D

Prague, January 23, 1977

Report on the Detention and Imprisonment of Charter 77 Signatories*

Document No. 6

Despite the fact that Charter 77 represents an exercise of the right to petition and the right to freedom of speech guaranteed by the Constitution, the signatories of this document, after it was made public, were subjected to various acts of police harassment as well as to restrictions on their freedom, as if the concept of the Charter and its dissemination constituted a criminal offense. We hereby submit a short summary of those acts aimed against the signatories of Charter 77 which have come to our knowledge, and we request that they be redressed where possible.

First, we consider it necessary to mention some facts about those signatories who are held in detention. It has been four weeks now (from 14th January) since the writer Vaclav Havel was detained. He had already been the victim of police harassment the previous week, some of this harassment being at variance with the law. A house search was made in his flat in his absence, a film recording was made of the interior of his flat, and later, during the search in his country property at Vicice, of the whole of this building as well. On the 10th and 11th January, he was subjected to a whole day of interrogation in Ruzyne. Vaclav Havel has not been seen by any of his relatives or acquaintances since 14th January. He was unable to comply with a summons for a technical inspection of his car scheduled for 15th January. On 16th January, V. Havel's wife received a letter informing her that her husband was being held in custody and had been charged in accordance with Article 98, para. 1 and 2 (a), and, further, that he requested the services of a lawyer to be procured (this communication from the Prosecutor-General's Office regarding detention in accordance with Article 68 of the Criminal Procedure Act was received on 18th January). On 21st January, Havel's typewriter was confiscated and information was received about his new investigator. The first meeting between the lawyer and the defendant took place on 20th January. Dr. Lukavek, however, was not present at any hearing of witnesses, nor was he acquainted with any documentary material. He informed the writer's wife that Havel's physical condition was good and that the interrogations were conducted "in the form of literary debates." She received two letters from her husband; he received one parcel but a letter sent to him was not delivered. Further, Dr. Lukavec announced that he was thinking of handing the case over to someone else.

Another two signatories have been detained for nearly the same length of time as V. Havel, one of the spokesmen of the Charter. They are Frantisek Pavlicek and the journalist Jiri Lederer. Together with the theatrical director Ota Ornest, who is not a signatory, they are respectively charged with subversion of the Republic and damaging the Republic's interests abroad. (Attention should be drawn to the fact that the connection between the detentions of O. Ornest and the other aforementioned persons is derived basically from various suggestive hints by the communication media and the police, and that the linkage is entirely unclear). The organs participating in the criminal proceedings have never informed either the defendants' relatives or the public what particular crime they are supposed to have committed. Their lawyers, the choice of whom was very limited, for the most part do not participate in the interrogations. Ota Ornest's state of health gives rise to grave fears since before his detention he had suffered two heart attacks and, in addition, suffers from diabetes.

These, as well as other circumstances, but in particular the silence of the state organs and organs of justice, lead us to urgently insist, in accordance with Article 29 of the CSSR Constitution, on the immediate release of V. Havel, F. Pavlicek, J. Lederer and O. Ornest. If this solution is at variance with the juridical opinion of the organs of justice, we demand that, after the prior assent of the Prosecutor, the reasons for these criminal proceedings and detentions are made public. If our request were not granted the public would be strengthened in their belief that the case is suspect because two signatories of Charter 77 and one of its spokesmen are being detained while Charter activities as such are not otherwise criminally prosecuted.

In this connection we also draw attention to a number of further repressive measures against the signatories as well as other persons since the beginning of this year.

Nearly all the signatories who had signed before January 1, 1977, i.e. more than 200 persons, were taken or summoned for cross-examination as witnesses in a criminal case of subversion of the Republic and they were repeatedly asked about Charter 77. The spokesmen of the Charter and some other signatories were subjected by the State Security Police organs to repeated interrogations, some of them lasting whole days. The interrogations are still going on; the citizens who have already given their testimonies or (as in most cases) used their right to refuse to do so, are being summoned over and over again.

The State Security Police has conducted almost fifty house searches, mostly at the homes of Charter 77 signatories. During these searches printed and typewritten materials were confiscated, also manuscripts, items of private correspondence and other articles not in the least connected with the investigation. Copies were made of typewriter scripts. According to incomplete

information the following signatories were subjected to house searches: Milan Balaban, Rudolf Battek, Jan Beranek, Toman Brod, Karel Cejka, Jiri Dienstbier, Bohumil Dolezal, Michel Dymacek, Vratislav Effenberger, Karel Fridrich, Jiri Hajek, Vaclav Havel, Ladislav Hejdanek, Oldrich Kaderka, Alfred Kocab, Bozena Komarkova, Anna Koutna, Pavel Landovsky, Jiri Lederer, Ladislav Lis, J. Meznik, Milan Otahal, F. Pavlicek, Jan Petranek, Z. Pokorny, Z. Prikryl, Milos Rejchert, Ales and Zuzana Richter, Jan Sabata, L. Sabata, Miluse Stevichova, Jan Trefulka, Jakub Trojan, Milan Uhde, Z. Urbanek, Ludvik Vaculik, Z. Vokaty, Petr Zeman, A. Vyroubal, Vaclav Vrabec.

During a random call on J. Patocka manuscripts and typescripts were confiscated. Eighteen of the victims come from Brno, i.e. nearly all of the Brno signatories.

Several signatories suffered an existential loss by on-the-spot dismissal from their jobs. As far as we know this step was always substantiated by reference to their signing of Charter 77. The immediate effect of the dismissals is being justified by allegations of either "grave infringement of the working discipline" according to Article 53 (b) of the Labour Code or "endangering the security of the State" Article 53 (c). Some of the reasons given as grounds for the termination of employment are unlawful. In this manner the following lost their jobs: Z. Mylnar, Associate Professor F. Jiranek, Associate Professor Radim Palous, Anna Farova, Ivan Medek, Helena Seidlova, Drahuse Probostova, Jakub Trojan, K. Dvorak, Milan Machovec, Petr Pithart and Oldrich Hromadko, the last three only last week. M. Stevichova and J. Litera had their new jobs terminated without reason during a one month's trial period. Other signatories expect similar repercussions, judging from the talks they have had with their employers within the framework of the campaign led against them at their places of work. Jiri Ruml, Jan Sokol and Vaclav Trojan were divested of trade union membership; Jitka Bidlarova and Zuzana Dienstbirova were expelled from their "Brigades of Socialist Work." The data at our disposal is probably incomplete, and it does not include the lost work orders and commissions which have occurred in connection with the signing of Charter 77.

Some actions against the signatories have endangered their health or caused bodily harm. For example, on 10th January Jelena Masinova suffered a long-term injury to the meniscus on her left leg (the doctors have suggested an operation) while being forcibly taken for interrogation. Zina Kocova was forcibly hospitalized for 13 days in the isolation venerological department of the Faculty Hospital, Prague 2 (U Apolinare), although her way of life did not provide grounds for suspicion that she could have a venereal disease. Between 21st and 24th January, the writer Karel Sidon was held in detention for more then 100 hours; since no charge was made within the first 48 hours of his detention, it is

to be deduced that for more than 48 hours, he was illegally subjected to a restriction of his personal freedom. A grave infringement on the personal freedom of J. Suk occurred on January 21. Members of the police used violence to force their way into his house, which was subjected to a search; a copy of his typewritten script was taken. An injustice was also committed against Ivana Hyblerova, nee Simkova. On January 31, she was first dismissed from the hospital of OUNZ (District Institute of National Health), Ceska Lipa, with a diagnosis of abortus imminens and as being unfit for work. Later on the same day, this decision was altered; on the orders of her superior, the Director of OUNZ, she was declared as fit for work. On the same day her one-month trial period at work expired and her employment could technically be terminated without any reason being given; she found medical help in Prague, 90 km. away, where she is hospitalized to this day with the same diagnosis.

Starting on January 10, the mass communication media unleashed a concerted campaign against Charter 77 which grossly distorted its content; not only did it employ slanders and lies, it also gravely impinged on the private lives of the signatories, which is contrary to the law, and it did not even shirk from anti-Semitism. The main victims were Vaclav Havel, Pavel Kohout, Zdenek Mlynar, Frantisek Kriegel and, in particularly, Ludvik Vaculik. The smear campaign against individual signatories still continues. Contrary to Article 17 of the International Covenant on Civil and Human Rights, none of the victims were given a chance to either defend themselves against these unlawful attacks on their personal integrity or to defend the Charter and the correct interpretation of the propositions it contains.

L. Vaculik, who lodged a complaint against CTK (the Czechoslovak Press Agency) for reproduction and circulation of improper photographs, is being sued for libel.

A series of repressive acts and defamations against Pavel Kohout was followed by scores of threatening letters whose content can give rise to the possibility that the addressee will be either physically liquidated or that he will meet with grievous bodily harm.

Further, numerous signatories had their driving licenses and technical certificates taken away from them. In the majority of cases, these documents have not been returned. Driving licenses were even taken away from doctors. This is of especial consequence to Vera Jarosova, who is thus prevented from performing her job as a driver.

Both spokesmen of the Charter (who are not in detention), as well as Pavel Kohout, Erika and Miroslav Kadlec, F. Kriegel, Gertruda Sekaninova-Cakrtova, Petr Uhl, L. Vaculik and F. Vodsion had their telephone lines cut. Some of them have already received

a letter seeking to justify the action by reference to urgent public interest due to which the Telecommunications Board is forced to use their lines for other purposes.

Some signatories have even had their identity cards taken away from them by the police; they have been given temporary certificates which cannot be used as proof of identity in hotels or for withdrawals from their bank accounts.

The state organs invited several signatories to ask for permission to emigrate (they were: Z. Mlynar, F. Kriegel, Milan Hubl, Pavel Kohout and Ludvik Vaculik). M. Hubl ignored a summons in this connection. The request was turned down by the signatories. (We believe that it is worthwhile mentioning that the signatory Evzen Mennert, who wanted to ask for emigration on his own initiative on the basis of the Austrian Chancellor Dr. Kreisky's offer, was told by the Czechoslovak authorities that it will probably involve a lengthy and complex administrative procedure).

In recent weeks many signatories have been summoned by the State Security Police and asked to withdraw their signatures from Charter 77. This request was coupled with pressure, but there were also instances where the signatories were offered in return an improvement in their conditions. In most cases, these efforts were futile, but this did not deter the police; they continue in their attempts to this date.

The repercussions were not limited to the signatories and their families; they also extended to those who did not wish to have their signatures to the Charter made public, friends of the signatories and their colleagues, and other citizens who expressed their agreement with, or support for, the Charter or some of the signatories. The Senior of the Czech Brethren Evangelical Church, Vaclav Kejr, was interrogated in Ruzyne prison only because the Synodal Council of the Church adopted a neutral stand towards the Charter by not condemning it, while the Czechoslovak press incorrectly informed the public that it did. Out of twenty-five of Ivan Medek's colleagues who protested against his dismissal, eighteen withdrew their signatures from the protest under pressure from the Director of the Supraphon company; of the remaining seven who refused to retract, three were dismissed and two subjected to other forms of punishment.

- Dr. Alena Capkova was subjected to a house search because she copied the Charter, and her typewriter was confiscated.

- Karel Freund, prior to his becoming a signatory of Charter 77 was twice subjected to an illegal personal search.

- Mr. and Mrs. Princ, friends of Miluse Stevichova, and living in her house, have run into serious troubles.

- Particularly glaring is the case of the grammar school teacher Jan Urban, who had his employment contract terminated with immediate effect only because he refused to sign a resolution condemning Charter 77 (see the letter from the South Bohemian Regional National Committee, Department of Education).

- Professor Dr. J. Kosinova was rebuked for not supporting the resolution condemning Charter 77 in an ordinance from the Head of the School of Librarianship, Prague 1. In it she was taken to task as a potential reserve of the "anti-state group" of Charter 77 followers. These cases can also serve as illustrations of the way in which the petitions against Charter 77 were obtained.

As spokesmen of the Charter, we have considered it our duty to mention all these circumstances; the awareness of these facts is of particular importance for those citizens who support the Charter movement and expressly wish to make it publicly known that by their signatures they expressed their agreement with Charter 77. The knowledge of these facts gives them a better picture of the situation and also makes it possible to define their attitude to the Charter more fully. Let us repeat that Charter 77 is in no way a closed society, but that it is a grouping of all those who consider it right and beneficial that the principles of both international pacts, i.e. the Covenant on Civil and Human Rights and the Covenant on Economic, Social and Cultural Rights, are fully implemented on a wide scale in our society. Both these pacts are after all a part of our Legal Code and they allow no ambiguous interpretation. For these reasons, Charter 77 is open to all Czechoslovak citizens without any further qualification. Charter 77 welcomes the support and expressions of sympathy which are being received in various forms from the followers of the fight for human rights. The solidarity expressed by the workers and their organizations, and progressive forces in Czechoslovakia and all over the world helps the signatories to apply themselves to the tasks formulated in the Charter. The determination to do so is also demonstrated by the fact that on February 1, a further 209 names of people supporting Charter 77 were made public.

Prof. Dr. Jan Patocka, DrSc, dr. h.c.

Prof. Dr. Jiri Hajek, DrSc

Prague, 15th February, 1977

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*Since the issuance of this document, extensive detention has culminated in show trials of Charter 77 signatories (See Implementation of the Final Act of the Conference on Security and Cooperation in Europe: Findings and Recommendations Five Years After Helsinki: Appendix B) and recent arrests in May 1981 (See updated Appendix A at the end of this document). The cases listed in this document were examples current in 1977. All available information for updates of these cases can be found in Appendix B to this document.

APPENDIX A TO DOCUMENT NO. 6

UPDATE ON THE STATUS OF POLITICAL PRISONERS IN CZECHOSLOVAKIA AS OF SEPTEMBER 1981

Sentenced

BATTEK, Rudolf, born November 2, 1924, detained since June 1980, sentenced on July 28, 1981 to 7 1/2 years of imprisonment for "subversion" under para 98/1 and 2, letter a&b (collusion with a foreign power) and three years of "house arrest" or "internal exile" after his prison term. Battek is one of the original Charter 77 signers, member of VONS (Committee for the Defense of the Unjustly Persecuted) and former Charter 77 spokesman.

GRUNTORAD, Jiri, 28 years old, Charter 77 signatory, member of VONS, editor of underground magazine "Forum", currently serving 2 year sentence under para 109 (attempting illegal departure from the Republic); sentenced on July 8, 1981 to 4 years imprisonment under paragraph 98 (subversion) for trying to smuggle out of prison a letter to friends abroad (in the west) asking for help.

DOLEJS, Antonin
DOLEJSOVA, Blanka, husband and wife; sentenced on March 24, 1981 by a court in Cheb - Antonin Dolejs to 10 months imprisonment, unconditionally, to second prison category, under para 155/1, (attacking a public official) and Blanka Dolejsova (wife), to 15 months suspended sentence for three years in the first prison category, under para 155/1(a) and 2(a), for attacking a public official. In May 1980 the secret police forced their way into their apartment in the early morning hours and beat both of them for "disturbing the peace"; the police were supposedly acting on a complaint from a neighbor. Both sentences were appealed.

HRABINA, Jan, born January 1, 1954, residence in Cernokostelecka 105, Prana, worker, Charter 77 signatory. Sentenced on June 14, 1981 by a military court in Prague for failing to report for additional 5 months military service (Hrabina just completed 19 months of basic military training), under para 269/1 of the Penal Code, to 30 months imprisonment, unconditionally. Hrabina has appealed the sentence.

Released

PETRIVY, Tomas, 25 year old former student from Bratislava, was was sentenced under para 155/1/b and para 156 (attacking a public official). Released on May 4, 1981 having served half of his sentence. The remaining sentence of 9 months was suspended, conditionally, for 2 years.

Detained, awaiting trial (presently in Prague-Ruzyne prison)

All the following citizens have been detained since the beginning of May 1981 and charged with subversion in collusion with a foreign power (para 98/1 and 2, letters a) and b). The trial is supposed to be held in the middle of September 1981.

HOREC, Jaromir, Dr. born December 18, 1921, poet and publicist; graduated from the philosophical faculty of the Charles University in Prague. Member of the Union of Czech authors and the Union of Czech journalists. Organized the publishing of samizdat literature, particularly poetry.

KANTUROVA, Eva, born May 11, 1930, author; graduated from the philosophical faculty of the Charles University in Prague; published several novels, stories, films and television scenarios; until 1970 member of the Union of Czech authors then not permitted to publish her works. Her stories and novels have been distributed in samizdzat form, some were published abroad, such as the "Cerna hvezda" (Black star) (Den svarta stjarnan, Alba Stockholm, 1980) and a book on discussions with 12 Czechoslovak women, activists in the field of human rights (Douze femmes a Prague, Maspero, Paris, 1981). Charter 77 signatory.

KYNCL, Karel, born January 6, 1927, journalist and publicist. Until 1969 editor and foreign correspondent of the Czechoslovak radio and television; member of the Union of Czech journalists; later worked in a medical documentary office. In 1972-1973 imprisoned for 20 months for "subversion" (sentenced in July 1972). His interviews and commentaries were published abroad. Charter 77 signatory.

MLYNARIK, Jan, Dr. born February 11, 1933, Slovak historian, residing in Prague. Graduated from the Philosophical Faculty of the Charles University in Prague; author of 12 books on specialized subjects; in 1970 fired for political reasons from the Academy of Musical Arts in Prague; later worker, forbidden to publish his works. Under the pseudonym of "Danubius" wrote, in 1978 , a polemical essay on the transfer of Sudeten Germans from Czechoslovakia, which was published abroad; in this connection he was interrogated by the STB. When detained in May 1981, he actually was no longer a Czechoslovak citizen, because he obtained permission to emigrate. Charter 77 signatory.

RUML, Jan, born March 5, 1953, worker (as a son of a politically persecuted journalist, he was not permitted to study, although he passed college entrance exams three times). Charter 77 signatory and member of the collective order of Charter 77 spokesmen; member of the Committee for the Defense of the Unjustly Persecuted (VONS). He was persecuted in the past for his activity in the field of human rights.

RUML, Jiri, born July 8, 1925, journalist and publicist (Father of Jan Ruml). Until 1969 editor of the magazine "Reporter" and member of the Union of Czech journalists, later worker. Now on disability pension. Author of some samizdat literature, reports and critical essays, which cannot be published in Czechoslovakia. Charter 77 signatory; member of the Committee for the Defense of the Unjustly Persecuted (VONS).

SIKLOVA, Jirina, Dr. born June 17, 1935, sociologist; graduated from the Philosophical Faculty of the Charles University in Prague. In 1969 fired from her position at the Charles University for political reasons. In 1970 worked on the problems of geriatrics. When detained, she was working at the clinic for internal medicine in the Thomayer hospital in Prague.

SIMECKA, Milan, Dr., born March 6, 1930, philosopher and publicist; graduated from the Philosophical Faculty of the University of Brno; residing in Bratislava. Since 1954 teacher at a high school in Bratislava. In 1970 fired from the College of Musical Arts, where he was the Dean, for political reasons; later worked as a driver and in the production of cement. Wrote essays, studies and commentaries on the situation in Czechoslovakia. Some were published abroad in German, French (L'Alternative) and English (Index on Censorship). His works included an analysis of the "normalized" development; book "Obnoveni poradku" (The establishment of Order) (Le retablissement de l'ordre, Maspero, Paris, 1979).

Awaiting trial-indicted-but not detained
("Subversion" para 98/1 and 2, letters a) and b) in collusion with a foreign power)

HAJEK, Jiri, Dr., born June 6, 1913; graduated from the Faculty of Law of the Charles University in Prague; Imprisoned during the German occupation 1939-1945; 1948-1954 as Professor at the School of Political and Economic Science; entered diplomatic service in 1954; Ambassador to Great Britain and Delegate to the United Nations; in 1965 Minister of Education and in 1968 Minister of Foreign Affairs;

expelled from the communist party in 1970; one of the original signers of Charter 77 and one of the first three Charter 77 spokesmen. Author of a number of books, articles and essays.

HAVEL, Ivan, mathmetician, brother of playwright, Vaclav Havel (currently imprisoned)

HAVLOVA, Olga, worker, wife of Vaclav Havel (currently imrpisoned)

HOLOMEK, Karel, architect, brother-in-law of Milan Simecka

JABLONICKY, Jozef, Dr., for 1932, Slovak historian

JICINSKY, Zdenek, Dr., born 1929, university professor, former Deputy

KLANSKY, Mojmir, born 1921, writer and journalist

KUSY, Miroslav, Dr., born December 1, 1931; graduated from the Philosohical Faculty of the Charles University in Prague; in 1957-1971 as lecturer, later professsor at the Philosophical Faculty of the Comenius University in Bratislava; had to leave the University for political reasons; until fired in 1976, worked in the Journalist Institute in Bratislava; later worked as worker. Was member of the communist party from 1952-1970; in 1968-1969 directed the ideological department of the Central Committee of the Communist Party. (Publisned several books on Marxist theory, etc.) Charter 77 signatory, member of the Collective of Charter 77 signatories.

MEZNIK, Jaroslav, Dr., born 1928, historian. Previously imprisoned for human rights activities. Charter 77 signatory.

MULLER, Jiri, born 1943, worker and former leader of the student movement. Imprisoned previously for 5 years. Charter 77 signatory.

Detained

NEPRAS, Vladimir, Dr., born April 9, 1929; worker, former journalist and editor of the magazine "Reporter"; seriously ill. Arrested for "inciting" (para 100) and because of "contacts with unnamed persons abroad." Detained after house search was conducted by the STB during which samizdat literature and Charter 77 materials were confiscated. Detained July 23, 1981. Presently at: PU 614 PS 07 16102 Praha 6 Ruzyne prison.

LIZNA, Frantisek, Catholic priest, born November 8, 1941; imprisoned from September 10, 1979 to January 1980 for "unauthorized business venture" (para 118/1). Detained at the end of July 1981, charged under para 112 (damaging the interests of the Republic abroad). No other details available.

Detained also were: Father Duka from Pilsen and Dr. Vit benes (priest) also from Pilsen. No other details available.

APPENDIX b TO DOCUMENT NO. 6
Dated February 15, 1977

MEDEK, Ivan, member of VONS, emigrated to Austria in 1979.

MLYNAR, Zdenek, Dr., emigrated to Austria in 1977.

LEDERER, Jiri, sentenced January 13, 1977 to 3 years for "subversion," together with Vaclav Havel, Frantisek Pavlicek and Ota Ornest; released January 13, 1980; emigrated to Germany with wife, who is of Polish descent. She was ordered to go back to Poland (did not have Czechoslovak citizenship)-that was the main reason for emigrating together to Germany.

KOHOUT, Pavel, was officially permitted to go abroad; however, later stripped of Czechoslovak citizenship, now in Austria.

LANDOVSKY, Pavel, was officially permitted to go abroad; stripped of Czechoslovk citizenship, now in Austria.

MENNERT, Evzen, emigrated to the Netherlands.

VORALY, Zdenek, harassed in June 1979, warned of criminal proceedings if he continues to be active in VONS; emigrated to Austria in 1980.

SUK, Jaroslav, detained in November 1979 for distributing samizdat literature; emigrated to Sweden on February 26, 1981.

KRIEGEL, Frantisek, Dr., deceased.

LIS, Ladislav, detained in May 1979, remained in detention until December 22, 1979 (Havel's trial); detained in March 1980 for co-signing letter requesting permit for quiet demonstration in support of Petr Cibulka; detained several times while attending, in 1980, Prof. Tomin's lectures.

PALOUS, Radim, detained in March 19980 for co-signing letter requesting permit for quiet demonstration in support of Petr Cibulka; detained several times in 1980 while attending Prof. Tomin's lectures.

SIDON, Karol, harassed during the appeal proceedings concerning the trial of Havel, etc. in December 1979; detained in March 1981 for wearing "Solidarity" badge at a dance.

SEKANINOV-CAKRTOVA, Getruda, Dr., detained during the round-up of dissidents (preparation for Havel's trial) in 1979 and again in April 1980, attending Prof. Tomin's lectures.

BALABAN, Milan, Dr., priest, detained in 1979 during the round-up of dissidents (preparation for Havel's trial); also in May 1980, no specific reason given.

MEZNIK, Jaroslav, Dr., detained in January 1980 with about 30 other citizens; detained in May 1981 in connection with the detention of Gilles Thonon and Francoise Anise.

HAJEK, Jiri, Dr., harassed and detained off and on for many years; in May 1981 detained in connection with the detention of Thonon and Anise (French citizens).

HEJDANEK, Ladislav, detained in June 1978 during Breznnev's visit in Prague, detained in 1980 for attending Prof. Tomin's lectures; also harassed continuously.

REJCHRT, Milos, detained for co-signing letter requesting permit for quiet demonstration in support of Petr Cibulka (March 1980); detained in 1980 for attending Prof. Tomin's lectures; detained in September 1980 during a round-up of citizens with regard to the Madrid Conference.

Hajek, Hejdanek and Rejchrt are Charter 77 spokesmen.

TROJAN, Jakub, Dr., harassed in June 1979, warned about being active in VONS; detained in May 1981 in connection with Thonon and Anise.

HYBLEROVA, Ivana, detained in March 1980 (co-signing letter concerning request for permit for demonstration in support of Petr Cibulka).

STEVICHOVA, Miluse, detained in June 1978, during Brezhnev's visit to Prague; detained in 1979 (October 22) during Havel's trial.

PAVLICEK, Frantisek, sentenced with Havel, Lederer and Ornest for "subversion" to 17 months imprisonment, was released from detention, conditionally for 3 years.

ORNEST, Ota, sentenced January 13, 1977 with Havel, Lederer and Pavlicek for "subversion." Imprisoned for more than one year (sentenced to 2 1/2 years); released conditionally in 1978.

OTAHAL, Milan, Dr., detained in May 1981 in connection with arrests of Thonon and Anise.

DYMACEK, Michal, detained in June 1978, during brezhnev's visit to Prague.

KOCAB, Alfred, detained for co-signing letter requesting permit for a peaceful demonstration in support of Petr Cibulka (March 1980).

POKORNY, Zdenek, detained in January 1980 with about 30 other citizens, no specific reason given.

ZEMAN, Petr, detained in January 1980 with about 30 other citizens, no specific reason given.

HROMADKO, Oldrich, detained in June 1978 during Brezhnev's visit to Prague.

VACULIK, Ludvik is a well-known writer, who cannot publish in the CSSR, some works have been published abroad.

Violations of Social Rights in Czechoslovakia

Document No. 7

Since the emergence of the Charter 77 movement, many critical voices have been heard with respect to social and economic rights. We think it useful to summarize in this document the main ideas on the subject.

Both of the Covenants with which Charter 77 is linked are imbued with the democratic ideal of the free human being. In this context, we consider it fair to emphasize that the ideal of man's liberation from the fear of destitution has always had and still has its most radical guardian in the international workers movement, which is also responsible for the most advanced formulations of these rights. The socialist movement has always aimed and still aims to create conditions in which workers will not have to sell their labour. But striving towards this ultimate goal of the complete liberation of labour, the socialists have never put aside the simple and ever-present requirement that the man who enters the labour market should be able to sell his labour under the most favorable conditions: the right to work should not be understood in the narrow sense of the concept. When seeking employment, the individual should also have the right of free choice; for his labour the worker should get a reward which can provide a decent standard of living for his family; the worker should have the right to negotiate his wages and his conditions of work as an equal partner; he should further have the right to organize with his fellow workers in pursuit of wage and other claims both in the factory and at other places of work; he should have the right to found trade unions and to operate them freely, etc.

All these requirements have now become law through the International Covenant on Economic, Social and Cultural Rights (see the Collection of Czechoslovak Laws, para. 120/76 Sb.) which has become a part of the Czechoslovak legal system.

We, the signatories of Charter 77, citizens of various political beliefs, have one thing in common, namely our identification with the provisions of this Covenant. A careful examination of the latter has led us to conclude that the state of economic and social rights in Czechoslovakia requires an unbiased evaluation; the present document should serve as a stimulus to this end.

1. One of the most important articles of the pact speaks of the "right to freely choose or accept work"(Article 6). It is often claimed that in Czechoslovakia this right has already been realized and that, as distinct from the capitalist countries, Czechoslovakia has no unemployment. It is true that the Czechoslovak workers created economic conditions which have abolished <u>open</u> unemployment; in this sense the workers have greater social security than in other developed countries. However, this has

been achieved at a price incommensurate with the purpose; there was a decrease in the effectiveness of the national economy which resulted in widespread hidden unemployment, which took the form of a large number of superfluous institutions and jobs that could have been disposed of long ago by the use of advanced technology and organization of labour.

At the same time, this state of affairs is accompanied by the virtual obligation to be employed, by the curtailment of the right to vote, to resign from employment or to change jobs, and by the possibility that those who do not comply in this respect with the increasingly severe requirements of the state are liable to legal prosecution. The state is the almost monopolistic employer; the formation of cooperatives is being progressively limited and the cooperatives are increasingly more and more directed by the state. The free choice of employment is an integral part of the right to work; it is particularly this last attribute of the right to work which is very little heeded by both current practice and the valid Labour Code. In this respect labour legislation as well as the labour policy have in recent years even shown signs of deterioration.

2. The International Covenant also stipulates the right to a just reward for work which can provide "a decent living for families" (Article 7). Within this definition, the right to a just reward is, in Czechoslovakia, almost non-existent because the salary of a wage-earner only seldom ensures a decent standard of living for his whole family.

This is also why Czechoslovakia has a very high level of female employment; in fact, one of the highest in the world. But we are all aware that this fact makes a virtue out of necessity. Most women do not take jobs because they wish for a fuller life of independence, but rather under economic pressure and out of bare necessity, because their husbands' pay would not ensure a decent life for their families. Consequently, the almost universal employment of women is not a sign of their increased equality, but rather of a higher degree of their dependence.

Women are also discriminated against in the assignment of jobs and in wages. Data from the first half of the 1970s, published in various sources, show that women's wages are on the average approximately one-third lower than those of men. Those fields of employment which are predominantly staffed with women generally offer inferior wages. In addition, the decision whether to fill a particular vacancy with a woman or a man is usually made administratively. Working conditions in the fields where women play a particularly important role (light industry, trade, agriculture) are far from satisfactory; in fact, these very areas are so demanding on physical exertion as to approach the bounds of human capabilities.

The social situation of women is also aggravated by a systematic disregard for the development of all kinds of services and even more by the constant increase in their cost. This malaise has been with us almost throughout the existence of the present social order. We all know of the chronic problems regarding the supply of all kinds of consumer goods. Even though the assortment of scarce goods does change from time to time, the problem itself remains the same.

The official women's organization does not criticize these things and if it does, then in a very lukewarm manner; it does not approach the organs of either legislative or executive power with any significant initiatives with a view to improving this state of affairs. Instead its energy is fully concentrated on efforts to prove, directly or indirectly, that in Czechoslovakia the problem of women's equality has already been solved and that the equal rights of men and women (Article 3) are simply secured. The creation of a new organization, which would sincerely defend women's interests and rights, is, however, made impossible by the legal ruling on the right of association.

3. Discrimination between men and women is, however, not the only case of wage discrimination. The trend towards discriminating between large groups of workers can be seen in comparing the young with the old, manual with non-manual workers, some highly skilled groups with the non-skilled, and also in the wage classification of individual branches of the national economy, etc.

A massive and largely demoralizing aspect of discrimination in remuneration is the so-called personal work appraisal; this practice places political involvement above professional skills or the actual work output. There is no need to prove that, apart from other things, this practice contradicts the right of "equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence" (Article 7). The aforementioned contradiction is all the more apparent when we realize that the criteria of so-called political involvement are miles away from the real needs of society.

Drastic manifestations of the above-mentioned practice can be seen in the sphere of labour management in the so-called cadre nomenclatures and cadre ceilings which allow preferential treatment for some (in particular members of the Communist Party) and unjust discrimination against others. As a result of this mechanism of labour remuneration and personnel selection, economic management and professional management in general have become a part of the apparatus of power and politics; their function is distorted: it is not work that they are primarily concerned with but rather the need to protect and safeguard the regime; the criteria for the appraisal and remuneration of managerial staff are not related to a really optimal selection and performance. In

actual fact, the fate of those people who were forced to leave their jobs for political reasons and who are at present doing jobs not commensurate to their skills, is only an extreme manifestation of this general practice.

4. Both the current practices of the trade union movement and the legal norms concerning association in trade unions contradict the right of trade unions to "function freely" (Article 8), since they do not concede the "right of everyone to join the trade union of his choice" (Article 8(a)). The trade unions are not run primarily by workers and shop-floor employees but by economic and other apparatuses. The function which the trade unions have fulfilled for many decades - the protection of the vital interests of the workers - has been practically eliminated. It has long since been forgotten that in the first years following the Second World War there also existed alongside the trade unions, works councils, organs of the workers which were invested with considerable powers, including participation in management; apart from that they displayed impressive political and socioeconomic activity. It is also being forgotten that the post-May 1945 works councils had a continuation of a kind in the councils of the working people in 1968*.

The trade unions do not make any effort to safeguard the participation of the broad masses of the workers in wages policy, whether it be on a local or national level. They allow this aspect of policy to be organized from above; when the workers resist wage reductions (for example, during the rationalization of the wage system in 1973-75), the trade unions do not support them. If the workers attempt to organize a strike, (which does not happen too frequently due to the risk of persecution which is at variance with the right to strike), they discourage them. The trade unions do not even press the Government to establish an existential minimum which could be reviewed yearly and which could serve as a basis for determining a minimum wage.

The trade unions have at their disposal various data on the situation regarding safety at work and on the living conditions of workers in general; they have information on the effective

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*People's attitude to work at that time is revealed in a sociological survey conducted in 1969.

Interest in work	until August 1968	after August 1968
much higher than before	46.8%	0.9%
slightly higher	20.1%	2.6%
no change	21.0%	11.3%
slightly lower	4.9%	14.2%
much lower	3.1%	68.1%
don't know, don't remember	4.2%	2.8%

decrease in real wages by covert and overt price rises, and their attention is often drawn to the irregularities in the allocation of housing; but despite all this they do not press for a fundamental solution of these problems. Instead of struggling for participation in all fundamental economic decisions, they desert the field and, in this way, they are co-responsible for the resulting bureaucratic decision-making.

The trade unions participate in the sermonizing campaigns for the full utilization of the working day, the workers' real opinion on and interest in this question. It is a true and well-known fact that as far as the utilization of the working day is concerned, Czechoslovakia probably has the shortest working week in the world; the basic working time is in reality utilized much less efficiently then it could be, often with the tacit consent of the foreman. But it is also generally known that with overtime and weekend work the working hours in Czechoslovakia rank among the highest in Europe. This is a result of the spontaneous attempts by the workers to arrive at a just reward in a way which, with the current generally poor level of management and labour organization, they find the most feasible. For this reason, the average worker is conserving his labour and does not deliver the performance of which he is capable. The 'conserved' labour is then realized in overtime or sold on the black market (where there is anyway a big demand for a great variety of services). In most manual jobs, the reward for overtime constitutes an important part of wages.

The trade unions do not take any productive stand on this complex economic problem although there springs to mind a whole range of possibilities how, with everyone participating, the real length of the working week and the feasibility of reducing it to at least a basic 42 1/2 hours, or even less could be reconsidered, while maintaining and even increasing (in some sectors) the current wage levels.

It would, however, be unrealistic to expect that the trade unions, which have become an appendage of the economic apparatus, can be the advocates of the workers' right to a just reward or that they should show a radical initiative in this respect. However, this realization should not be used as an alibi for all those involved because "the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant" (preamble of the Covenant on Economic, Social and Cultural Rights).

There are many other points that could be added to this criticism of the trade unions. Each of the points mentioned here could be elaborated in much greater detail than we have done. The same holds true for the other questions we have touched on and also such problems of social relevance as the right to a safe job without health hazards, questions regarding public transport,

problems relating to the health service, the right to a choice in cultural life and questions concerning the regimentation of culture, problems concerning the deterioration of the environment and conservation in general, and so on and so forth. These grave problems can be solved only by their being publicized and discussed. Their concealment and, on the other hand, the exaggerated emphasis on achievements only, deepens the accumulated contradictions and aggravates the sorry state of affairs still further. The Charter 77 movement will, therefore, undertake to work out critical analyses in the social, economic and cultural spheres and submit them for discussion by all the members of our society.

In many spheres of our life, we can also observe many positive phenomena, especially in comparison with the past. The essence of the matter does not lie, however, in the proportion of pluses and minuses in the field of economic and social rights, but rather in the way they are approached. We consider it our civic duty to voice our disagreement with the view that a working man in our country has full social freedom and that all his rights are safeguarded; we disagree in particular with the thesis that, with the achievement of the right to work and of some other social rights, all the other rights, in particular political rights and democratic freedoms, lose importance.

True enough, the worker does not sell his labour in the old-type capitalist market. However, this does not mean that all his rights are automatically respected. We believe that the rights and interests of the workers can only be guaranteed by the working people themselves. If this role of the workers is restricted, curtailed or even abrogated by their being denied their civil and political rights, the unavoidable consequence is the appearance of negative tendencies throughout the social and economic life of society. In agreement with the Covenant on Social, Economic and Cultural Rights, we are convinced that "the ideal of free human beings, enjoying freedom from fear and want, can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights" (preamble to the Pact).

With equal urgency, we would like to draw attention to the fact that the purpose and essence of socialism is not simply to secure the social rights and certainties but rather the all-round development of man as a free being, i.e. the liberation of man in the deepest and fullest sense of the word. A great deal still remains to be done before this aim is realized. This would still hold true even if we could enjoy the social and economic rights in Czechoslovakia to a much greater extent than is possible today; it would hold true even if we could exercise these rights to the extent stipulated by the International Covenant on Economic, Social and Cultural Rights.

Prof. Dr. Jan Patocka
Prof. Dr. Jiri Hajek

Prague, March 8, 1977

Freedom of Religion

Document No. 9

J.A. Comenius: Omnia sponte fluant, absit violentia rebus.
(Let everything happen freely and without violence)

Recognition and implementation of human rights is becoming an issue of crucial importance both nationally and internationally. The struggle for human dignity, for the respect of the individual and his faith, for freedom of conscience and conviction is increasing. At the same time, mankind is being threatened by a wave of barbarism, violence and terror. Human rights and the very principles embodied during the last decades in significant documents of the United Nations are being brutally trampled upon.

It is to be welcomed that some of these documents (two of the International Covenants) recently became part of our legislation. It is important that the Final Act of the Helsinki Agreement and an Agreement on Prevention of Educational Discrimination were signed by our representatives, and that the Universal Declaration of Human Rights is considered practically all over the world to be an inspiring document of great spiritual and moral strength. Disrespect for human rights doesn't just bring suffering on individuals and groupings within their respective societies, but it also threatens the international community as a whole. As this is being increasingly realized, it binds the individual citizens, social institutions as well as governments to respect these principles and to work persistently towards their implementation.

Freedom of conviction, thought, conscience, religion and belief, together with all other liberties and rights of man should be an object of attention and respect not because they may represent a privileged claim of some citizens, (e.g. religious freedom) but simply because without them the society cannot become truly human. It is for this reason that neither individuals nor states can claim any right to obstruct the expression of freedom of thought, conviction and conscience. On the contrary, it is their task and duty to contribute their powers towards the full realization of everybody's freedom. Human beings shall develop freely and shall apply their freedom creatively according to their choice, actively participating in the political life of their country, in the administration of the state and in the economic and cultural development of society.

The International Covenant on Civil and Political Rights declares the right of freedom of thought, conscience and religion in Article 18. It declares freedom "to seek, receive and disseminate information and ideas of any kind regardless of borders, whether oral, written or printed, through art or any other means according to one's own choice." (Article 19, Para. 1,2). In light of these principles, it is necessary to remove all obstacles hindering the implementation of these rights.

It is of utmost importance that believers and non-believers alike should be able to express their opinions, even if these should differ from the official ones, without fear of reprisals. Besides Article 25 of the above-mentioned Covenant which provides for equality of conditions for those entering public employment, it is also necessary to resolutely respect Article 20 of our Constitution, according to which "the society of working people assures the equality of citizens by the creation of equal possibilities as well as opportunities in all areas of the life of society."

Irreconcilable with this is the common tendency during the processing of employment applications and other administrative proceedings to pressure people to "abandon their outmoded religious views." Although religious denomination has been omitted from official documents for more than 20 years, it is known that in many instances it nevertheless plays an important part in the evaluation of people. It is necessary to ensure that believers and non-believers have equal opportunity to become teachers, professors, scientific workers, civil servants, employees in the courts and the offices of the prosecutor and in other institutions without having to hide their convictions. Ability and moral qualities should be the only criteria in deciding job suitability.

The general state of affairs will be helped if the right to freedom of expression will not be restricted as, for example, in the case of the believers to a merely passive attendance of available religious services. Believers should have the right to freely exercise and develop their spiritual and religious life, to realize their aspirations in keeping with their traditions and in the light of newly acquired knowledge, without outside interference. At the same time, they should be unhindered to publicly submit proposals, to freely discuss and proclaim their views and to publish them in the religious and secular press. A Christian or a Jewish artist, teacher, scientist, philosopher, theologian or publicist has the right to take part in the cultural life of his country in the same way as a person who is an active adherent of Marxism-Leninism. Both of them, and naturally others, who, for example, share the humanistic, democratic and atheistic traditions should have the opportunity to discuss their views in the mass media to the benefit of the entire society. It is irreconcilable with the principles of the right to freedom of conscience, thought and expression if certain occupations (e.g. teaching) are entrusted only to people who take an oath adhering to an ideology of the ruling political power. All ideas are weakened if they are propagated and administered by power. To this our history bears ample witness. That is also why the ideal to proclaim freely one's faith was enunciated here already in the times of the Hussites, ahead of other nations in Europe.

The right to freedom of expression includes the right to receive ideas and inspirations regardless of frontiers. It is contrary to this right if people are prevented from obtaining philosophical, theological, religious and other literature from abroad and if they are precluded from freely disseminating ideas, articles, essays and other works across the boundaries. It is time to put an end to the disastrous practice of curtailing by all available means the opportunity of obtaining undistorted information and ideas about Christianity and other religions. It is wrong if the dissemination of religious and other literature and even the bible is considered practically a punishable offense and an anti-state act (for example, it is unreservedly prohibited to read the Scriptures in prisons).

The state of religious instruction and the education of the young poses a special problem. The current practice should be brought into line with the principles embodied in both International Covenants and in the Agreement on the Prevention of Educational Discrimination. Education should be made available to all without discrimination of any kind. Only ability and talent of the applicant should decide. In both Covenants (Article 13 of Coven. I and Article 18 of Coven. II), states which are a party to them undertake to respect the right of parents and guardians to guarantee the religious and moral education of their children according to their own convictions. If this education takes place partly in school, it is the duty of the state to ensure that this right is effectively carried out by removing all obstacles, i.e., pressure exerted on parents by school and other authorities not to send their children to religious classes; to spare children ridicule because of their and their parents' faith; and to ensure that they shall not suffer discrimination because of their belief. The Church and the families should impart religious instruction in their customary way regardless of age.

Our Constitution and both International Covenants (Article 28, Article 21 of Coven.I and Article 22 of Coven.II) proclaim the right to peaceful assembly and the freedom of association. These freedoms provide for the right to associate with others and to create organizations to implement such freedoms as well as to assemble with others not only in designated places but also in public places, in the open air, etc. In practical terms, this means that the state recognizes the right of churches and religious societies to hold congresses and meetings of all kinds in Church and other buildings at which questions of common interest can be discussed, ideas freely exchanged and thereby the community strengthened. To this end there shall also be special courses and seminars for the believers, conferences of laymen and clergy, youth coventions and gatherings, work parties, trips and extended stays for recreational and study purposes. Various church organizations, societies and associations as well as extensive ecumenical contacts among the members of different churches have an important role to play in their regard. This applies in equal measure to the monastic orders which have been an integral part of

the Catholic and Orthodox church for thousands of years. The freedom of the church and religious communities to seek ties with fraternal communities abroad is an inalienable part of the right of association and assembly. This includes exchanges among students and teachers of theological colleges, contacts between individuals and representatives of churches at various levels for purposes of friendship and study. Lively contacts among Christians across boundaries of nations and states, and mutually fruitful exchanges among various traditions and movements will have a positive influence on the life of the whole of society. The existence of these is specifically implied in the Final Act of the Helsinki Conference (in the chapter concerning cooperation on humanitarian matters).

Last but not least there is the question of the social welfare of the clergy and their status vis-a-vis the Labour Law. There must be full application of the principle explicitly proclaimed by law no. 218/1949, namely, that the clergy are employees of the church and are authorized by it to carry out their mission. The situation will be better served if the clergy are permitted to do their jobs without the gross interference of the state organs which often, without grounds, refuse them permission to carry out their ecclesiastical duties. As the labour legislation dating back to 1949 and still in use is wholly insufficient, it is necessary to implement, particularly in clerical and Church practice, the official Labour Code. In Paragraph 268 such application is, in fact, specifically stipulated.

One must be wary also of unwarranted interference in the conducting of entrance examinations to the theological colleges. The needs of the believers, and the interest and personal merit of the applicant should be the only criteria.

This document is introduced by a quotation from an outstanding figure in our cultural and intellectual history. His spirit is living testimony to the fact that all these freedoms constitute an integral part of a total historical heritage and that their importance in the life of every individual as well as the whole of society is crucial. It would be tragic if inalienable freedoms and human rights were to be regarded as something that could be expediently subordinated to political or ideological aims. We continue to hope and believe our social system has the capacity to ensure that these human rights and freedoms are not only recognized, but also realized through popular initiative - in a spirit of mutual trust and cooperation.

Prof.Dr. Jiri Hajek, DrSc.
Spokesman of Charter 77

Prague, April 22, 1977

Analysis of Charter 77 Following Professor Patocka's Death

Document No. 10

Nearly four months have elapsed since the day the Charter 77 Manifesto was made public. In the life of society, it is not a long time; but a great deal has happened and consequently the evaluaton of this period can be taken as a basis for constructive deliberations.

The direct submission of the Charter 77 text to the CSSR Government and to the Federal Assembly was prevented by the State Security Police. The reaction of the state powers to the public announcement of Charter 77 was more marked both in extent and form than the position which had hitherto been adopted in the case of preceding petitions also submitted under Article 29 of the Constitution. In the course of recent years, Czechoslovak society has experienced neither such a vigorous campaign in the communication media as the present one which used outrageous accusations to discredit the spokesmen and signatories of Charter 77, nor such widespread covert repression. At the same time, the substance of the affair was kept secret from the public.

The response of the communication media was hysterical and brutal. Intimidation and defamation of one's fellow-citizens is at variance not only with the much emphasized ethics of the journalist but also with the law. The campaign against Charter 77 has in some respects set back our journalism to the early 1950s. However, this very campaign has aroused the public's interest in the authentic text of the Manifesto and other documents. The fact that these documents had also been published abroad made it more difficult to attribute the Charter 77 views, pronouncements or intentions which it had not promulgated and which it did not hold. The documents of Charter 77 have been spontaneously distributed among the population. The confrontation has revealed the absurdity of the whole campaign. People have come to their own conclusions and as a result, hundreds of people have added their signatures to Charter 77 and many others have expressed their sympathies in a variety of ways.

With few exceptions, the representatives of the state powers have reacted to Charter 77 with restraint. Since they learned that the text does nothing other than appeal to them to observe the pledges they themselves have accepted and enacted, they did not want the world to see them in the role of those who do not respect international pacts or our own law. However, they endorsed the statement that the signatories of Charter 77 are a fifth column of the imperialists, they allowed dubious political actions in which, under existential pressure, Charter 77 was condemned and, above all, they gave the authorities a free hand in making the lives of the signatories as difficult as possible.

Constantly emphasizing the legality of their measures, the authorities have placed some signatories practically outside the law. They have been forcefully taken to police stations for interviews, subjected to house and personal searches and interrogations, dismissed from their jobs, their telephones have been cut, their post withheld and their driving licenses, technical vehicle certificates and even their identity cards confiscated. Slovak signatories are not allowed in Prague and Czech signatories in Bratislava; visitors are accompanied back to their homes. A number of signatories have been subjected to a costly 24-hour police surveillance. They are followed wherever they go. Three of them, Jiri Hajek, a spokesman for Charter 77, Frantisek Kriegel and Zdenek Mlynar, have been besieged by the police for many weeks, their visitors are registered and searched, guests from abroad, including communists, are not admitted and some of them have even been prevented from entering the country. (A moderate estimate of the cost of two months of police surveillance is about Kcs 350,000 just for wages.) For four months now, a spokesman for Charter 77, Vaclav Havel, and a signatory, Jiri Lederer, have been held in custody without being charged; there are certain signs that a trial is being prepared, ostensibly perhaps on other charges but to the public at home and abroad it would unequivocally be a trial against Charter 77.

The events surrounding the tragic death and funeral of a spokesman for Charter 77, Professor Jan Patocka, are a particularly sad testimony to the way some organs of power respect civil rights guaranteed by law and the norms of human decency and respect for the dead.

Both the press campaign, which did not offer a single pertinent argument, and the repression which has hardly spared a single signatory, are eloquent proof that Charter 77 has only drawn attention to all those numerous problems in our country which must be solved. At long last the subject of civil rights and democratic freedoms has deservedly come into the public focus. Charter 77 has given a number of citizens the courage to act, individually and in groups, in the defense of human rights. Official pressure on the people to condemn Charter 77 has made a large number of citizens politically aware by confronting them with a personal decision. For the price of insincerely condemning Charter 77 or formally declaring their loyalty some citizens, especially in the field of culture, were given the promise that they would be allowed to carry on in their professions. Everyone living in this country can judge for himself whether this price is not too high and the result too uncertain. The state authorities have also attempted in a very unobtrusive way to make some minor cosmetic changes in current practices which are at variance with the law or the state's international pledges. That is how we can judge, for the time being, the changes which have been made in the procedure for selecting students for secondary schools, until we have more information. The same holds for the so-called free sale of the bourgeois press announced abroad but not realized in practical terms.

The public's increased interest in the problems of human rights and democratic freedoms initiated by Charter 77 and the reaction to it was also reflected in the proceedings of the Federal Assembly on 5th April this year. Many citizens understand the communique issued by the Federal Assembly as a partial answer to the Charter 77 Manifesto and draw attention to the fact that neither this communique nor the published part of the debate repeated the unsubstantiated charges against the Charter. Moreover, the Federal Assembly confirms, even if only in general terms, the legality, expediency and also the necessity of civic initiative aimed at the real implementation of civil rights and exercise of democratic freedoms. However, it does not draw concrete conclusions from their violation despite the fact that these have been brought to its attention numerous times by the Charter 77 documents.

One of the subjects which the Czechoslovak communication media persistently dwell on, and mostly in a dismissive manner, is the reaction to Charter 77 abroad. The State Security Police also focuses its attention on this problem in almost all the interrogations of the signatories. The most absurd fabrictions are being voiced about some kind of ideological, organizational and even material dependence of Charter 77 on the centres of imperialism and anti-communism. We are witnessing - with slight variations - a repetition of the false accusations of the early 1950s, which are not supported by anything but the monopolisitc position of its fabricators who are systematically attempting to misinform the public here and abroad. Their false and totally unsubstantiated accusations are reprinted in other Warsaw Pact countries. We, therefore, appreciate all the more the solidarity and moral support of many of the citizens of these countries. We also appreciate the sympathy expressed by representatives of the human rights movements working in these countries under extremely difficult conditions. Similarly we are encouraged by the solidarity of communists, socialists and democrats from all over the world, the solidarity of anyone who is concerned in the same way as Charter 77 with a respect for human and civil rights as one of the preconditions for real peaceful co-existence and equal cooperation amongst all countries without regard to their social system or their level of economic development, in accordance with the UN Charter, the General Declaration of Human Rights and the Final Act of the Conference on Security and Cooperation in Europe.

The nature of the response of the surrounding countries, whether positive or negative, its intensity and sincerity, are dependent on the current situation in the individual societies and on the state of international relations, and the signatories of Charter 77 have only a limited influence here. Our task - despite all the campaigns and repression - is to further develop legal civic initiative as laid down in the Charter 77 Manifesto. We are convinced that the critical social phenomena and above all the unnecessary tension with regard to the implementation of human rights and the exercise of democratic freedoms can be removed only by a rational and constitutional procedure, in particular:

(a) by checking on the facts which have hitherto been adduced by Charter 77;

(b) by a responsible analysis of their causes and consequences;

(c) by the gradual but consistent elimination of all procedures, phenomena and practices which are at variance with the prevailing rule of law; and

(d) by the gradual but consistent abrogation of all the provisions of the Czechoslovak rule of law which are at variance with the two international covenants and other Czechoslovak international pledges and, on the other hand, by enacting such legal provisions as would be in full accordance with them and would not allow an ambiguous interpretation.

We, therefore, propose:

1. That the undignified campaign against Charter 77 and its signatories is stopped and all unlawful measures are rescinded. That the costly police actions, which do not solve anything but create further and further conflict situations, are stopped. That all the citizens detained in connection with Charter 77 are released.

2. That the two international covenants are published in sufficient number to meet the demand. The publication of Ordinance No. 120/76 of the Collection of Laws, which was sold out long ago, is quite insufficient. That the ideas of both the covenants are propagated in the communication media and by other means, in particular, where there are evident contradictions between the two covenants on the one hand and the Czechoslovak rule of law and the implementation of civil rights and democratic freedoms on the other.

3. That the Federal Assembly communique of the 5th April this year, which instructs the committees of both national assemblies and all the deputies to keep a close watch on the observance of the law, is consistently implemented. In this connection, attention should be paid to the protection of civil rights and democratic freedoms and the suggestions and complaints of citizens should be dealt with in a responsible manner. That all citizens are given not merely a theoretical but a real possibility to lodge complaints with them - either in written form or by word of mouth - concerning provable violations of the rule of law and that all influences wishing to prevent this are excluded. As the supreme organ of state power the Federal Assembly should on its own initiative deal with such cases that discredit the policy of the state and induce the constitutionally subordinate organs to rectify them.

4. On the basis of an all-nation discussion, steps should be taken to amend and adjust individual laws, in particular in the field of criminal law but also in civil law, in the Labour Code and elsewhere, so that the Czechoslovak rule of law is in harmony with both the international covenants. Not only will a public discussion on these problems help to settle the differences between the Czechoslovak rule of law and the two covenants but it will also strengthen the legal security of citizens and their legal awareness, and in this way it will contribute to the implementation of socialist principles.

5. Proposals, suggestions and complaints should be discussed with the spokesmen for Charter 77, its signatories and other citizens who request this, within the relevant political and state organs, institutions and social organizations and not in the interrogation rooms of the State Security Police, since the majority of the aforementioned problems most decidely do not fall within their jurisdiction.

6. In accordance with Article 41 of the International Covenant on Civil and Political Rights, our state should recognize the competence of the Commission for Human Rights to consider reports on violations of this pledge by a state. With this step, whereby a state submits itself voluntarily to international control, the prestige of the Czechoslovak State would be enhanced and it would also dispel fears that our adherence to the two pacts is only formal.

7. That employees of the communication media, security police and other state and political organs who have abused their position by spreading untruths, by inadmissible repression and violence or by influencing the judicial, administrative and other organs with the aim of harming citizens psychologically and physically, are brought to justice. People who infringe laws and binding civil regulations in this way damage the reputation of the state institutions. It is they who have to be afraid of an effective system of control. It is they who feel threatened by a properly functioning system of legality. Real social democracy is a nightmare for them and that is why they are the very people who are and always will be the most vehement opponents of human and civil rights and democratic freedoms. Today they direct their threats only against us but their repeated attempts to resurrect the trials of the 1950s - the only aspect of their activities to meet with the resistance of the political leadership - have proved that they will not stop for anyone.

Charter 77 offers cooperation in dealing with the problems contained in these seven points; it is willing and able to submit concrete proposals and documentation and to participate in working out the appropriate measures.

In the past four months, Charter 77 has gone through many a trial and has held its ground. All its arguments have withstood the fire of defamation and despite the persecution only one single signatory has withdrawn his signature. Charter 77 has vindicated its legal basis. Even those who are being detained have not been charged in connection with it and the statement of the Prosecutor General, although he has frequently been abused recently in labour disputes, has a rather indefinite formulation which cannot, therefore, be legally binding. But, above all, Charter 77 has maintained its moral credit and resolve to continue in its efforts to cooperate with anyone who considers the effective protection of and full respect for human and civil rights a significant contribution to the strengthening of peace and the easing of tension in Europe and the world and a prerequisite for the development of a really advanced and democratic society in our country.

Signed on the 25th April, 1977 by the Charter 77 spokesman Professor Dr. Jiri Hajek, DrSc.

Published in Prague on 29th April, 1977

Memorandum to the Federal Assembly - Employment

Document No. 11 (Synopsis)

On May 30, 1977, the Chartists sent a memorandum to the Federal Parliament which challenges its most important allegation to the effect that the domestic laws on civil, political and economic rights far surpass their international standards because they guarantee the right to work and its implementation in fullest possible measures. While it is true that the Constitution of the country guarantees this right, the Chartists make a well documented case against the government by pointing out that serious discrimination in its application exists, based essentially upon political criteria.

The document says that the practice of stripping a citizen of his right to work, as a punishment for political reasons, is nothing new in the country. Hundreds of thousands of people have been victims of this discriminatory practice in the past as well as after 1969, the cases of which have been by and large documented, and only in a very few cases has redress been afforded. However, this repression and discrimination continues even today, and although a few hundred of people have been victimized so far, the fact remains that any citizen initiative and independent political views may touch off reprisals on a mass scale by dismissals from work. Thus, the right to work has been transformed, ceases to be a right and becomes an award, an award a citizen can be deprived of for political reasons at any time.

This situation is clearly in conflict with the Constitution and the existing laws, as is evident from the following facts. In 1969 the Labour Law had been amended to enable the government to dismiss thousands of citizens from work for political reasons connected with the democratization process of 1968. This amendment of the Labour Law was then challenged at the meetings of the International Labour Office, where Czechoslovakia was cited as one of the countries violating the provisions of international labour conventions which prohibit dismissal from work for political reasons. In view of this international censure the government of Czechoslovakia amended the Labour Law in 1975, and on the basis of this amendment its representative declared at the meeting of the International Labour Office in Geneva that the amendment had removed the objectionable clauses and thus brought the Labour Law in harmony with the appropriate international standards, including the standards set out in the Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights. Thus amended, the Labour Law then makes it impossible to dismiss a person from work for political reasons, said the representative. In fact, according to the minutes No. 56 of the 60th Session of the International Labour Office in Geneva the Czechoslovak representative said that the revised text of Article 53 of the Labour Law concerning the reasons for which a person can be dismissed from work explicitly stipulates that a person may be lawfully

dismissed only when his actions pose a threat to national security; in such cases, however, it is necessary to prove this by documentary evidence in the courts. In this connection, said the representative, the threat to national security means acts which endanger the territorial integrity of the state, its ability to organize self-defence, and state institutions and secrets. In view of this declaration, the International Labour Office made the following statement:

> "It now appears that the definition of Articles 46 and 53 of the Czechoslovak Labour Law, which replaced the term 'threat to the socialist social system' with a term 'threat to national security,' has removed those specific characteristics of the previous text of these two articles which lead to objections. It is important now that these changes are made known and really applied. It is important to emphasize that disagreement with decisions of a political nature and with political views cannot be considered as a threat to national security, but as a matter falling into the province of freedom of thought. This principle must be applied both in letter and spirit."

After carefully presenting this legal basis of its argument, Document No. 10 then says that this interpretation of the two articles of the Labour Law made by the Czechoslovak representative in Geneva is not respected by the authorities in the country because many people have been dismissed from work for political reasons, i.e., because they signed Charter 77 which merely calls for the application of civil and political rights enacted by the Federal Parliament as Law 120 of 1976, or because they refused to sign statements condemning the Charter without seeing it first. The reason for these dismissals is the fact that in spite of the declaration made in Geneva, many employers consider a mere signature of the Charter as an act which threatens national security. It is distressing that the employers who dismiss the people, as well as the courts which hear their appeals against these unlawful dismissals, are instigated to take this position by the Procurator General, whose responsibility in fact is to see that the laws are observed and their meaning is not interpreted differently abroad and at home.

The memorandum then lists and documents 81 cases of people who were dismissed from jobs up to April 30, 1977 for political reasons connected with the Charter; the list is not complete because the appeals of many people are still pending before the courts, and due to difficulties in collecting information from other parts of the country.

These cases of dismissals for political reasons are divided into seven categories: (1) 19 cases of immediate dismissals; (2) 23 cases of dismissals on the basis of a 3-month notice; (3) coercion of 6 persons to resign the job under threats, and in one case, blackmail; (4) in 5 cases the new employers refused to normalize the contract after the expiration of the trial period of one month for people who had previously been dismissed from jobs for political reasons; (5) 40 cases of people who could not find employment after being dismissed for political reasons because of the discrimination against them by prospective employers; (6) transfer to a less desirable or less paid work well below the qualifications of at least 9 employees who had to comply because otherwise they would be dismissed; (7) by other forms of political pressure and manipulation.

In these and other cases of dismissals for political reasons, and other violations of the right to work, a significant role is played by the trade unions. In fact, the Central Council of Trade Unions issued directives to all employers to the effect that all who had signed Charter 77 must be expelled from the trade union. Moreover, all cases of dismissals are confirmed by the trade union organizations in the plants and other places of employment.

Also the courts, which hear the appeals of the people unlawfully dismissed, turn down their appeals by references to the directives of the Procurator General branding Charter 77 as an anti-state document, in spite of the fact that such directives should not be binding upon the courts. Moreover, Charter 77 is not read at the courts, is not entered as an exhibit in the proceedings and files and no evidence is demanded to prove how the dismissed people threatened the national security. In this respect the courts and their judges themselves are violating the standing laws, both substantive and the law of evidence and procedure, because they are afraid; they are afraid for their own jobs because an independent inquiry into the evidence upon which the dismissals were based would show that Charter 77 does not pose a danger to state security, its signature is not a violation of labour discipline and that, therefore, the dismissals were wrongful.

The majority of people who have recently been dismissed have been unable to find new employment; the reason is that the government -as the monopoly employer who directs all economic institutions, courts, police, social, health and educational institutions - is in the position to issue instructions to the network of the cadre departments regarding who is permitted to work and where. And it is for this reason that the people who were dismissed for political reasons cannot find new employment, since prospective employers depend upon these instructions for whom to employ and how. This method of allocating employment results in a system of forced and indentured labour from which it is very difficult to free oneself, escape from the country being frequently the last resort.

In view of these gross and documented violations of the right to work, the Chartists appeal to the Federal Parliament, in absence of the Constitutional Court which so far has not been set up:

(1) to offer a binding interpretation of Articles 46 and 53 of the Labour Law and thus to inform the citizens which interpretation is correct: the one presented by the government delegate at the meeting of the International Labour Office, or the interpretation contained in the directives of the Procurator General sent to the courts;

(2) the legal committee of the parliament should investigate the 60 pages of documents attached to this memorandum on the dismissals, order cancellation of those found unlawful and prohibition of any dismissals for political reasons in the future; moreover, similar redress should be afforded to tens of thousands of people who were so persecuted in the past;

(3) because the courts as well as the General Procurator are responsible to the Federal Parliament, the latter should review their work concerning the appeals against unlawful dismissals for participating in citizen initiative or for political reasons; moreover, it should make sure that the interpretation of laws by the courts and the Procurator General reflect the legal norms and standards of the two Covenants on civil and political rights which have precedence over the old laws; the parliament should inform the people to that effect;

(4) the Chartists are ready to cooperate with the Federal Parliament on these tasks, collect pertinent documentation, and assist in every way in the removal of all discriminatory practices. This, in fact, is the central purpose of the Charter. As an addendum to Document No. 11, the Chartists issued on June 14, 1977, a list of 133 citizens who signed the Charter, increasing their total to 750 persons. Of the new 133 signatories 81 are workers, 30 clerks and technicians, 19 intellectuals, 1 agricultural worker, 1 pensioner and 1 housewife.

Discrimination in Literature

Document No. 12

Through this document, published on June 30, 1977, the Chartists addressed themselves to discrimination, repression and existential terror in the field of literature, where writers are denied - through the control of the government of the entire publication industry -the right to work, freedom of thought and the right to participate in the cultural life of the country.

The dismal state of literature in the country has its roots in government interference in the activities of writers, which in its scope and devastating effects has no parallel in the modern history of the nation; there is no other historical period in which so many writers were prevented by the authorities from publishing than the period since 1969. The devastation of the cultural field is best seen from the fact that in June 1968, when the Union of Czech Writers was established, some 400 writers were its members. Soon, however, this union was dissolved by the government and when a new union was set up, this had only some 40-50 writers, the membership increasing to 164 writers by 1977 who passed through the network of verification procedures in which political criteria are decisive for admission to the membership in this union. The significance of membership in the union is apparent from the fact that only those writers who are its members are afforded conditions for normal work, can publish in periodicals or through publishing houses, can undertake study tours abroad, to say nothing about the subsidies, scholarships, prizes, and various forms of aid. Even some aspects of social and health insurance, normally available to anyone, are available to the writers only through membership in this union. This preferential treatment of the "officially sponsored writers" is directly responsible for the sorry state of literature in the country and its decline in spite of the declarations to the contrary by the authorities; moreover, this preferential treatment is the root cause of the vast discrimination against other writers who represent the majority of the national community of writers and who are, from the cultural point of view, far more significant. These writers are then not only deprived of the possibility of publishing in the fields of their competence, but are pushed, through existential pressures into jobs which do not correspond to their qualifications, regardless of waste of talent and ability and damage to national culture.

From the number of writers who have been victims of this official discrimination, two have been in jail since January, one has been jailed since last March, and several of them are recovering after their release. About 90 writers who write in the Czech language are prevented from publishing in the country because they live abroad. Some 15 writers who are not permitted to publish or permitted to publish only as window dressing, have been

in actual fact prevented from publishing during the past seven years, in spite of the fact that they have made pledges of loyalty to the government in connection with its campaign against Charter 77, some of them having made this pledge several times.

In addition to the above 100 or more authors, some 130 listed in the appendix are victimized in one way or another. This subtotal of 230 writers does not include, however, a great number of additional writers whose names are not listed because of fear that this might worsen their position, both as writers and citizens. If these were counted, then the total of persecuted writers amounts to some 300-400 people. But even this number is partial, because it includes only those authors who live in Prague, and write in Czech, excluding those who live outside because of difficulties connected with obtaining information on them.

The list of authors which is appended to Document No. 12 includes 130 writers who are totally excommunicated and not permitted to publish at all, and those who are excommunicated partially because they are permitted to publish translations of foreign works, or publish only for children, or reprint their own old works but not permitted to publish more recent and new works. On the other hand, the list contains the names of writers who are not permitted to publish at all and whose works, frequently their entire life's output, have been totally banned in the country. All their books have been taken out of circulation, removed from public libraries and there is a ban on reprinting them. Some 50 writers suffer this total excommunication; among them are poets, novelists, dramatists, critics, historians, sociologists and philosophers. The authorities totally ignore them and eliminate all references to them as if they never lived; literally, they are buried alive. They are not permitted to participate in cultural life as translators, editors or to publish even historical works and documents on past centuries. Their names must not appear in press in any form, in references and bibliographies. The excommunication of these authors frequently includes a ban on the entire literature in which their names appear; in practical terms this means that thousands upon thousands of books are thus proscribed, which has a crippling effect upon the whole national culture.

This discrimination against and excommunication of the majority of writers is accompanied by an officially-sponsored campaign in the mass media, press, radio and television in which the writers are systematically insulted, slurred and demeaned, while having no access to the media for public defense of their personal honour and artistic integrity. The list of the authors which is attached to Document No. 12 does not include the names of all those who are persecuted; its purpose is to draw attention to the terrible state of Czech literature and to refute the official statement which denies the existence of a large number of writers

and their works. The list could be enlarged by names of many authors who write in the Slovak language, and who are equally persecuted. In its final part, Document No. 12 refers to the provisions of the two covenants relating to freedom of thought, artistic and scientific activity, the right of organization and other freedoms essential for creative activities, and calls for their respect in the country.

Document No. 15

To the Federal Assembly of the CSSR
To the Federal Government of the CSSR

In the Proclamation of Charter 77, of January 1, 1977, which was submitted to the Federal Assembly and the Government in accordance with Article 29 of the Constitution and presented to the public in accordance with Article 28 of the Constitution, 240 citizens (whose number is nearing 1,000) brought to the attention of the highest organs of the Republic the discrepancies between the established practices (in the CSSR) and the obligations which ensue from the fact that since March 23, 1976, the International Covenant on Economic, Cultural and Social Rights as well as the International Covenants on Political and Civil Rights have been in force.

In a number of documents that were issued as a follow-up to the Charter, the spokesmen, entrusted by these citizens to do so, as well as other participants in this civic initiative, reported on specific cases and situations documenting these discrepancies. In contravention of the letter of the Constitution none of these citizens who brought attention to these facts, has received an answer to their reports. However, many of these citizens, as was specifically pointed out, have become - because of their consistent stand on the necessity of upholding the law - the victims of repression, discrimination and persecution, which in itself obviously has the character of illegality. Because the organs, perpetrating these acts (of discrimination, persecution, etc.) are at least in some cases trying to refer to established legal regulations, they themselves are thus affirming the necessity of the request to bring the whole legal system of our Republic in conformity with the International Covenants on Human Rights.

We want to bring attention to the fact that these Covenants were signed in the name of the CSSR on October 7th, 1968, that the Federal Assembly accepted them on November 11, 1975, that they were ratified by the President and the ratified documents were registered on December 23, 1975 with the Secretary General of the United Nations. In the CSSR these Covenants have been in force since March 23, 1976 and they were published on October 13, 1976 in the Collection of Laws under No. 120, Item 23.

The CSSR is obligated - under the universally accepted norms of international law, confirmed many times, also in the Helsinki Final Act - to uphold the obligations ensuing from these Covenants. As a signatory of an International Covenant, it cannot justify eventual non-fulfillment of these obligations with references to its internal state laws (Article 27 of the Vienna Convention on Contracting Law - 1969). Neither can it - through references to its sovereignty - refuse to discuss with other signatories the fulfillment of that which forms the content and the basis of these contracting obligations, which it accepted. The principle of contracting faithfulness as far as the two Covenants are concerned, is also strengthened by the fact that the Czechoslovak Government has several times, at international forums, specifically reaffirmed their binding force. Let us here cite again the Final Act of the Conference on Security and Cooperation in Europe and a number of Resolutions of the United Nations for which the CSSR voted, the last one being the Resolution of the General Assembly of the U.N. of December 19, 1977 (Declaration on the intensification and strengthening of relaxation of international tensions).

In accordance with the position which is recognized by our legislative bodies and executive organs as well as socialist legal science, an international agreement, properly concluded in accordance with the provisions of our constitution, becomes automatically a part of the legal system of our Republic; it comes into force by proper publication. Since it was accepted by the legislative body, ratified by the President and published in the Collection of Laws, it has the force of law and the already established principles are valid for its application to other parts of our legal system.

In accordance with Article 2, Par. 1, 2 of both Covenants the signatories - including the CSSR - have pledged to:

a) respect rights recognized by the Covenants;

b) to guarantee these rights to all individuals on its territory and subject to its jurisdiction as a signatory, without discrimination as to race, color, sex, religion, political or other opinions, national or social origin, property, descent or other status;

c) to undertake such necessary steps in accordance with its constitutional provisions and with the provisions of the Covenants in order to adopt such legislative or other measures as may be necessary to give effect to the rights recognized in these Covenants, where such legislative or other measures are not adequate.

In our country, the Covenants have the force of internal laws: they specify, define more precisely and intensify the respective principles reflected in the Constitution. The Rules and Regulations concerning the rights and duties of citizens

should be interpreted in the spirit of these Covenants. Experiences, some of which were the basis for the submission of Charter 77 to the Federal Assembly, are a testimony to the fact that the organs in power in our country are not only not doing that but that, on the contrary, very often they ignore or even violate the provisions of the Covenants. Were the highest organ of state power, for example, methodicaly and purposefully to see to it that all state organs and social institutions abide by the provisions of the Covenants on human rights and fulfill the obligations ensuing from them, it would act not only in accordance with Article 17 of the Constitution concerning the duty of upholding the law, but also in the spirit and letter of the Decree of April 5, 1977 of the Federal Assembly, with regard to consistent protection of the rights and interests of citizens. This applies not only to the Federal Assembly as an entity, but also - in accordance with the said Decree - to its committees and all its members.

Harmonizing the legal system with the International Covenants can, in some cases, be done through the interpretation of established legal rules, although sometimes only theoretically. In other cases existing laws would have to be amended or new regulations would have to be worked out on the application of the legal adjustments in instances where they are lacking.

We feel that - as is the case in some other socialist countries - it would be necessary to ensure:

- the widest publicity of documents concerning human rights, particularly of the Declaration, the Covenants,and related special Conventions, etc.

- scientific analysis of the relevant problems and the publication of technical and popular scientific publications.

- inclusion of the theme of human rights in the curriculum of schools on all levels.

Such a course is a condition for the realization of the principles as stated in the preamble to the Covenant on civic and political rights, according to which "the individual, having duties to other individuals and to the community to which he belongs, has a duty to strive for the promotion and observance of the rights recognized in this Pact."

Dr. Jiri Hajek
spokesman for
Charter 77

Marta Kubisova
spokesman for
Charter 77

Dr. Ladislav Hejdanek
spokesman for
Charter 77

Prague, February 8, 1978

Supplement to Charter 77 Document No. 15

Concrete Suggestions

1) General standing of the citizen in relation to the state

It is stated in the preamble of the covenant on civil and political rights that, inter alia, contracting parties acknowledge "natural dignity and equal and inalienable rights of all members of the human family" to be the basis of freedom, justice and peace in the world; they acknowledge that "these rights are derived from the natural dignity of the human being."

Civil and political, as well as other rights, are not, therefore, "donated" by the state to its citizens. The state does not limit itself to "its" own rights by "providing" them. Rather, on the contrary, all power in the Czechoslovak Socialist Republic belongs to the working people; state power is executed by the working people through the representative bodies, from which the jurisdiction of other executive state institutions is derived (Article 2 of the Constitution of the Czechoslovak Socialist Republic).

From this flow the following results:

a) the citizen is not a "subject of the state," but rather an equal partner of the state and its organs;

b) the state may interfere in the lives of its citizens only so far as it is explicitly allowed by the legal code which includes both covenants. The remaining sphere of the life of the society includes activities that are legally indifferent or it includes the sphere of activities that have been allowed (the maxim "what is not legally forbidden is allowed");

c) State administration is not an "authoritarian" activity but, rather, a societal function performed in the interest and for the well-being of the citizens' community.

These conditions, flowing from the general conception of the individual covenants (and, of course, from the Constitution of the Czechoslovak Socialist Republic) should be emphatically enforced by the Federal Assembly in its legislative, political and supervisory activities (cf. point A/7).

2) The responsibility to ensure the legal defense against the violation of laws or rights (Art. 1, par. 3, of the Covenant on Civil and Political Rights).

Consider the following in this context:

-- The Federal Assembly has so far not passed an executive law and constitutional law of the national councils envisaged by the constitutional articles number 100 and 101 and constitutional law 143/1968; consequently, constitutional courts have so far not been established. (Even though the above-quoted constitutional law relies on the existence of the constitutional courts and regulates its basic procedures.)

-- Till now the law concerning a court's function in the process of determining the legality of judicial decisions has not been passed. It has been envisaged in the constitutional enactment number 98, par. 4, constitutional law number 155 of 1969. Consequently, the courts examine the legality of administrative decisions de facto solely in the sphere of social security and then only in specific matters. (This arrangement represents the realization of obligations under different international agreements.)

-- Because the responsibility for damage caused by unlawful ruling is dependent on the abrogation of such an unlawful ruling and because meritorious re-evaluation of an administrative decision of the court is not usually allowed, the law number 58/1969 may be applied in the administrative sphere to a considerably limited degree.

-- The right to petition, in the sense of constitutional article number 29 is not -- as far as its execution is concerned -- regulated by the law (governmental regulation number 150 of 1969 dealing with the settlement of complaints, announcements, and suggestions by the people has a doubtful legal value and does not satisfactorily solve the whole problem). There is even a tendency in practice to limit the right to petition, guaranteed by the Constitution, to a specific content, etc.

-- It is impossible to appropriately determine the question whether the public prosecutor deals justly with all criminal acts committed by public representatives in connection with performance of their duties, because in this regard the public is not provided with all the necessary information.

3) The Right to Life (art. 6 of the above-mentioned covenant)

It is necessary to note that the covenant apparently prefers the abolition of the death penalty, even though the contracting parties are not obligated to adopt this provision. There is worldwide support for this provision. However, there is a tendency towards the abolition of the death penalty; scholarly discussions carried out in the Czechoslovak Socialist Republic have reached the same conclusion.

4) The Right to Freedom and Personal Security (art. 9 and 10 of the above-mentioned covenant; inviolability of a person, according to the constitutional article number 30). Consider the following in this context:

-- this right is not completely regulated by law;

-- the Penal Code (the complete text is to be found under art. 148 of 1973) regulates in detail the detention of a person suspected of a criminal act or a misdemeanor, the detention of the accused and his arrest. Court regulation, however, is closely linked with materially legal regulation (the Penal Code -- the complete text under art. 113 of 1973); therefore, if the actual evidence of a criminal act was at variance with the covenants, the arrest etc. for that act would be also indirectly at variance with them;

-- the authorization of members of the SNB (the police force) to demand an explanation in the spirit of the constitutional paragraph 19, law number 40 of 1974 (and for this purpose to summon citizens etc.) as well as the authorization to detain a person in the spirit of the constitutional paragraph 23 of the above-mentioned law is not, in its procedural aspect, regulated in such a way that an abuse would be impossible;

-- while the execution of a sentence of imprisonment is regulated by law (number 59 of 1965 in its valid form), the execution of detention of persons accused (charged) is regulated merely by edicts of the appropriate ministers. Legal regulation is lacking (the accused persons, according to article 10, paragraph 2 of the Covenant on Civil and Political Rights, are to be treated as if the verdict of "guilty" has not been decided on as yet).

5) Freedom of movement and the freedom to choose one's place of residence (article 12, paragraphs 1 and 3 of the above-mentioned covenant; freedom of residence according to the constitutional article number 31).

Consider the following in this context:

-- Complex legal regulation of these rights is lacking.

-- Legal regulation, pertaining to entry and presence in the border security zone, envisaged in the constitutional paragraph 10, law number 69 of 1951, concerning the protection of the state borders, is lacking (mere guidelines of an internal character are not binding on citizens).

6) Everyone may freely leave any country, even his own; no one may be arbitrarily denied the right of entering his own country (article 12, paragraphs 2, 3 and 4 of the covenant; this regulation is lacking in the constitution; one may only apply the constitutional article 31 concerning unlimited freedom of residence).

Consider the following in this context:

-- According to law number 63 of 1965 concerning travel documents, the issuance of travel documents may be denied to citizens "whose trip abroad would be at variance with state interests" as well as in three other concrete cases. The notion of "state interest" has been specified (in a quite unsuitable manner) in a governmental edict number 114 of 1969 which has been issued by the government without any legal authorization; its legal value is, therefore, doubtful to say the least. This whole regulation is at variance with the enactment number 12 paragraph 3 of the Covenant on Civil and Political Rights which states that everyone has the right to leave any country freely, including one's own. This right is not subject to any limitations except for the following:

a) those that are stated by law,

b) those necessary for the protection of national security, public order, health, and morality or the rights and freedoms of others,

c) those that are in accordance with other rights recognized in this covenant.

New legal regulation should be coordinated with special legal regulations (for example, the Penal Code, the law concerning the welfare and health of the people -- as long as epidemiological measures are concerned, etc.); this new legal regulation should be in accordance with the reasons that are, according to the covenant, acceptable and should state explicitly, when the issuance of a travel document should be denied.

The valid decree number 44 of 1970 by far exceeds the authorization given by the law; it even goes so far as to state that the issuance of a travel document de facto depends upon the agreement of one's superior at work, i.e. the school's headmaster, chairman of the national council, etc.

As long as the issuance of a travel document was or is in practice conditional upon one's signing a document whereby the applicant gives up all his property rights as well as his social security claims etc., then, this practice is illegal for a number of reasons.

For the same reasons regulations concerning administrative fees (as long as they formally enable the authorities to require arbitrarily as much as 10,000 Czechoslovak Crowns for the issuance of a travel document with no criteria explicitly stated) should be revised.

The factual essence of the criminal act of defecting from the Republic according to article 109 of the Penal Code must now be interpreted in accordance with article 12, paragraph 2 and 3 of the Covenant on Civil and Political Rights. The courts may in certain appropriate cases apply article 3, paragraph 2 of the Penal Code (an act which involves only a minute risk for the society is not a criminal act even if it has the appearance of a criminal act). The courts may, then, consider the act as a mere misdemeanor according to the law number 60 of 1961. Such an attitude, however, will not be acceptable in the long run. It, therefore, appears advisable to review article 109 of the Penal Code in the appropriate way or to abrogate it altogether.

-- For the same reason it is necessary to revise the legal regulation of depriving persons of their citizenship as well as regulations on administrative fees which allow the authorities to charge as much as 12,500 Czechoslovak Crowns as a fee for a person's release from his citizenship (the sum is arbitrarily arrived at -- there are no explicit criteria). The same applies to hard-currency regulations (particularly article 1, paragraph 3 number 143 of 1970).

-- Revision of such criteria is called for also in the case of article 69 of the Social Security Law number 1212 of 1975. This article declares that "unless international treaties state otherwise, payments will not be sent abroad and one's claim will not be honored for the period of time that one has spent outside the country." This regulation, in its present-day form, is a de facto sanction of the person who is exercising his rights. It also has no support in the logic of the whole legal regulation; the citizen who is subject to this regulation has become eligible to receive the payments for his work for Czechoslovak society just as well as the citizen who does not reside abroad.

-- It will also be necessary to deal with the well-known problems pertaining to the application of article 39 of the Civil Code (invalidity of legal actions) on legal actions of the persons who after the act left the Republic without permission or stayed abroad illegally.

7) No one is to become subject to arbitrary interference in his private life, family, home or correspondence as well as be subject to attacks upon his dignity and reputation (article 17 paragraph 1 of the Covenant; inviolability of one's residence, secrecy of mail as well as other communications are guaranteed by article 31 of the Covenant without limitations).

Consider the following in this context:

-- A complex legal regulation concerning the protection from arbitrary interference in one's private life and residence is lacking. This is an extremely complex issue concerning the confidentiality of the doctor-patient and attorney-client relationships, regulation on the entry into a residence without the owner's permission as well as questions pertaining to protection from interference in one's private life by means of physical and audio-visual surveillance.

What was stated with regard to the right of freedom and personal security (see point 4) applies also to the inviolability of residence.

To the same category belongs the act of demanding information on citizens without their knowledge; they also have no access to that information and cannot, therefore, dispute its accuracy. To this category also belongs the act of demanding information by one's employer and administrative organs on private affairs of an employee or a participant in an administrative procedure and his relatives, etc, without there being a material connection provided between the release of this information and one's performance at work.

-- Postal and telecommunication confidentiality are regulated by appropriate laws; this applies particularly to guarantees of their implementation (here applies, as far as criminal procedure is concerned, what was said above).

-- The citizen is protected against attacks on his dignity and reputation by articles 11 and 12 of the Civil Code (or article 60 of the Labor Code in case of work evaluation reports) and article 206 of the Penal Code (libel). It is especially important that protection be provided effectively (it is doubtful, for instance, whether sanctions enumerated in the Civil Code are effective).

-- It is the public prosecutor's official duty to take legal action against criminal acts violating the above-mentioned rights. These criminal acts are outside of the sphere of the citizen's right to take legal action. Neither can a citizen demand that criminal proceedings be instituted. (This applies to the Czechoslovak Penal Code generally).

8) <u>Everyone has the right to freedom of thought, conscience, and religion</u> (article 18 of the Covenant; freedom of thought according to article 32 of the Constitution).

This includes not only the freedom of general intellectual orientation (ideological, philosophical, religious belief or persuasion) but also the attitude toward some specific, concrete questions. Conscience stems from general intellectual orientation as moral awareness (a sort of self-control of human behavior, evaluation of one's own deeds). This is recognized as one of the basic human freedoms.

Consider the following in this context:

-- This freedom includes not only the right to hold a certain persuasion, but also the right not to have to hide it out of fear of adverse consequences (as opposed to the right to have an opinion according to article 19 of the Covenant).

-- It is illegal to extort a binding statement pertaining to a particular persuasion or the absence of it (but see the text of oaths and vows which require expression of loyalty to certain philosophical and political persuasions - this is the case, for instance, with members of the armed forces or employees of certain branches of the governmental apparatus, or teachers).

-- There is no legal regulation providing alternative service for persons who because of their convictions and their conscience refuse to serve in a military combat unit.

-- This right, according to the Covenant, includes "the freedom to practice or accept a religion or belief according to one's own choice and the freedom to express one's own religion or belief alone or with others, publicly or privately, by performing religious rites, services, observing rituals, and proselytizing." According to article 18, paragraph 2 of the Covenant on Civil and Political Rights, "the freedom to express religion or belief can be subject only to limitations prescribed by laws which are necessary for the preservation of public safety, order, health, or morality or the basic rights and freedoms of others."

In practice executive organs distinguish between churches and religious societies that have been authorized and sects that have not been authorized (i.e. illegal). The authority of the appropriate central organ of the state administration to "authorize" activities of churches and religious societies used to be derived from article 2 (not valid anymore) of the law number 217 of 1949. This law authorized the State Office of Religious Matters to "ensure that religious activities will evolve in accordance with the Constitution and the premises of the people's democracy." However, this is only an organizational regulation, there is no materially legal regulation. Therefore, there are no criteria to determine whether a church or a religious society should be authorized or not. The law number 218 of 1949 cancelled all obligations to support religious activities. It also authorized state supervision of ecclesiastic property. It also stated

that personal salaries of clergymen would be provided by the state, within a given range and provided that the clergymen's activities had been authorized (guidelines for this authorization have not been established).

The Covenant, therefore, introduces certain basic innovations which should be reflected in the legal system by appropriate changes.

This also relates to the question of re-evaluating the legal content of the abuse of a religious function according to article 101 of the Penal Code. It also relates to the legal content of the criminal act of obstructing the supervision of churches and religious societies according to article 178 of the Penal Code, or to their interpretation and application.

9) Everybody has the right to hold an opinion freely and the right of the freedom of expression (article 19 of the Covenant; freedom of expression as well as the freedom of the press according to article 28 of the Constitution).

Consider the following in this context:

-- The right to hold an opinion freely is linked to the freedoms listed under point 8). This freedom, according to the Covenant, cannot be limited (the only limitations are imposed by the rights of others, according to the Covenant). A certain persuasion, even if it is expressed as an opinion, cannot be the grounds for discrimination or privileges in the area of respecting and safeguarding the rights guaranteed by the Covenant (article 2, paragraph 1 of the Covenant); they cannot also lead to inequality before the law (discrimination and privileges), article 26 of the Covenant, article 20, paragraph 1 of the Constitution.

An opinion cannot, therefore, result in discrimination in the hiring process or the termination of one's work contract by the employer, in the process of determining rights and obligations of the citizen in a judicial or an administrative procedure, etc. Holding an opinion (or not holding one) cannot, therefore, lead to a termination of one's work contract by the employer according to article 46, paragraph 1, letter of the Labor Code (this cannot be considered as a precondition or a requirement for work performance). Similarly, holding an opinion or not holding it cannot lead to a denial of a place in the secondary school or the university, denial of a travel document, an apartment or the right to own a gun (hunting or other). It cannot result in discrimination in the process of settling marital and family issues and the like.

-- The freedom of expression includes, according to article 19, paragraph 2 of the Covenant on Civil and Political Rights, the freedom to seek, spread and accept information and ideas of all sort without regards to frontiers, whether orally or in written

form by means of art or any other means; limitations of these rights cannot be imposed only by law. From this point of view it is necessary to consider whether they are indispensable to the preservation of the rights and reputations of others, preservation of national security, public order, public health and morality (article 19, paragraph 3).

Closely linked with the freedom of expression is the right of every citizen to participate in cultural life, etc., see article 15 of the Covenant on Economic, Social and Cultural Rights.

-- The valid legal regulation is, in Czechoslovakia, based on these premises:

a) Organization

1. The Czechoslovak Press Agency is the sole information agency in the Czechoslovak Socialist Republic. It is a state-run organization, the purpose of which is, inter alia, to collect and to edit political, economic, cultural, sport and other information in print and film from the Czechoslovak Socialist Republic and from abroad and to make this information available to the press in accordance with the valid agreements (law number 123 of 1965 in its valid form).

2. The Czechoslovak Radio is a state-run organization with a monopoly for creating and disseminating broadcast material; its operation is guided by the policy of the Communist Party of Czechoslovakia (law number 17 of 1964 in its valid form).

3. Czechoslovak television is a state organization with a monopoly to produce television programs; its activity is based on the policy of the Czechoslovak Communist Party (law No. 18/1964/Sb in its valid form).

4. Periodicals (newspapers, magazines, etc.) can be published by political parties, volunteer public organizations, state organs, scientific and cultural institutions, economic and other organizations in fulfillment of their societal functions. For a periodical to be authorized it must, first of all, be registered (i.e. a state organ must issue an authorization); it is not to be issued if there are no "guarantees that the periodical will be fulfilling its societal function: (more detailed legal conditions are lacking). Registration expires and the authorization to publish a periodical ceases to be valid "if there occurs, post factum, a factor which would have prevented the registration"; furthermore, state organs can apply additional sanctions against the editor (the right to appeal such decisions by state organs was cancelled in 1969). Current law applying to periodicals and other mass media is Number 81 of 1966. Temporary measures for periodicals and other mass media are provided for in Number 127 of 1968 and legal regulation Number 99 of 1969.

The registration is conditional on the requirement that publication is "secure in the material, technical and financial aspects"; should a situation arise which does not fulfill this obligation it would result in the cancellation of the authorization. The publishing industry is also run by the state. And the state, therefore, controls the paper allocation, and thus influences not only the circulation but also the very existence of certain newspapers, etc.

Publishers may circulate their periodicals directly or by means of the appropriate state-controlled organization (postal-periodical service).

5. Books, sheet music and other non-periodical publications can be published only by certain organizations which have been granted publishing authorization; to set up a publishing house a special permit is required; conditions for issuance (or denial) of this authorization are not stated.

A state authorization is required for the distribution of non-periodical publications except in the case of publications distributed by the publisher himself who has been authorized to do so (law number 94 of 1949 in its valid form).

6. Film (documentary and artistic) is under state control in production, import, and distribution. The general director of Czechoslovak Film is authorized to issue regulations concerning cinematography, particularly regulations pertaining to the operation of cinemas that are run by the National Councils (governmental regulation number 13 of 1962 in its valid form).

7. All theaters are state-controlled without any exceptions. The state establishes and operates its own theaters and authorizes the establishment of other theaters (only socialist, legal personalities may apply for this authorization); furthermore, the state authorizes performances outside the permanent site or district of the theater, special performances, performances by amateur theatrical companies (the latter can be produced by certain organizations only) etc. Conditions for the authorization (or the refusal of authorization) are lacking. (The Theatrical Law number 55 of 1957 and relevant regulations.)

8. Concerts and all other musical performances are controlled by the state through its organs and organizations. Ensembles of full-time musicians may be set up only by state organizations with special authorization; ensembles of folk musicians performing as amateurs may be set up by a chosen organization on the basis of an authorization from an appropriate state organ (an appropriate ideological and artistic level is, inter alia, a criterion). (Law number 81 of 1957, regulation number 112 of 1960 and others.)

Public musical performances (even if they are realized through mechanical, optical or other means) can be staged only with special authorization from the appropriate state organ.

9. Matinee and circus performances and establishments of popular entertainment (folk festivals, public balls and amusement parks) are run by the state through its organs and appropriate organizations; a special authorization from the appropriate state organ is required (law number 82 of 1957).

10. Libraries of state organs and institutions, community organizations and cooperatives are all parts of a unified system of libraries. Their purpose is to "contribute to general education of the working people according to the spirit of scientific world outlook." State organs monitor and control the operation of libraries to make sure that their performance "contributes through its ideological impact to the needs of a socialist society."

11. Adult education is on all levels within the state's territory, run in accordance with a unified plan of adult education which is subject to authorization by the appropriate state organs. Establishments of adult education are set up by state organs (National Councils), community organizations united in the National Front, farmers' cooperatives and by branches of the armed forces. The arrangement of individual actions is subject to authorization of state organs (law number 52 of 1959).

b) Censorship

While the Constitution of May 9 of 1948 explicitly forbade censorship, the Constitution of 1960 has no explicit clause pertaining to it.

1. Mass media (periodicals, news agency reporting, journalistic and other components of radio and television broadcasting, documentary films and audio-visual records used for spreading information about events, facts and opinions in the Czechoslovak Socialist Republic or abroad) as well as other public media and activities of cultural and educational establishments came under state control (according to article 17 of the Press Law number 81 of 1966) which ensured that the content was not at variance with the interests of the society. If the information involved state, economic, military or police secrets, the appropriate state organ could stop or put on hold the publication or the dissemination of it. This decision was subject to a judicial review. If the content was at variance with other interests of the society, the state organ was to inform the editor-in-chief and the publisher.

This regulation has been cancelled by law number 84 of 1968 which states explicitly that "censorship is inadmissable." Article 17 of the Press Law is now valid in the following revised form:

Law number 127 of 1968 on some temporary measures in the area of the press (which has been valid now for ten years) states that:

-- The validity of article 17 of the Press Law in its revised form has been temporarily cancelled; this article, therefore, has remained a part of the Czechoslovak legal system but it is in abeyance and the maxim that "censorship is inadmissable" cannot be appealed to;

-- the appropriate state organ through its authorized agents ensures that the mass media will not publish information not in accordance with important interests of the state's domestic and foreign policies; the appropriate state organ or its agent is authorized to delay the publication or other distribution of such information (judicial control is inadmissable).

This regulation does not interfere with the freedom to publish results of scholarly research and artistic endeavor.

Already in June of 1970, the highest authorities proclaimed, that as of September 1969, "it was possible to drop the practice of preliminary controls and to place the responsibility squarely on the shoulders of the chief editors, with the end result that today (1970) censorship in Czechoslovakia practically does not exist;" the majority of the mass media have, as a matter of fact, "become a political power tool of the Party (the Communist Party of Czechoslovakia) and the state," and, "the editorial offices were placed into the hands of persons, who support the new course of the party politics" (Rude Pravo, June 27, 1970). However, no legal adjustment was made.

2. As far as non-periodical publications are concerned, the government can, in accordance with par 5 of law 12/1968/Sb, order organizations and organs, which have been authorized to publish, to ensure within their editorial guidelines that important interests of the state's domestic and foreign policies will not be violated. Similarly, the government may issue orders to the printing industry and other organizations involved in printing but not covered by the law 94 of 1949. So far details have not been set by legal regulation. It is also true here that the freedom to publish the results of scholarly research and artistic endeavor has not been affected by this regulation.

3. Organizers of public concerts and other musical productions, matinees and circus performances, and establishments of popular entertainment of performances outside the permanent site or district of the theater, performances by amateur theatrical companies, exhibitions, lectures and films shown outside the

regular movie theaters are obliged to apply in advance for an authorization from the appropriate state organ, even if the production is carried out by mechanical, optical or other technical devices.

While considering such an application, the state organ is to consider first of all whether "the ideological and artistic level" of the production corresponds with the requirement to increase systematically the quality of performances.

Every production is attended by an agent-censor of the appropriate organ who is authorized to stop it (cf. regulation 99 of 1958).

Authorization of a theater's season schedule implies authorization to stage the plays included therein; the manner of and the prerequisites for approval are not legally stated.

c) The status of journalists, etc.

Editors of newspapers, radio and television are not provided with a legal guarantee with regard to their right to express their opinions freely (e.g. special legal regulation safeguarding their right to hold an opinion different from the one held by the publisher).

d) Exchange of information with foreign countries

1. According to article 22 of the Press Law number 81 of 1966, exchange of information between the Czechoslovak Socialist Republic and other states is unrestricted; this privilege is not to be misused to jeopardize the reputation and the rights of Czechoslovak citizens and their socialist coexistence, nor is it to be misused to jeopardize the interests of the socialist state or the development of peaceful coexistence. Import and distribution of foreign periodicals will be forbidden by the appropriate state organ if their content violates legally protected interests of the society or international agreements (article 23 of the above-mentioned law). The manner and the publication of this injunction is not stated. (Cf. misdemeanor according to article 5 letter b law number 150 of 1969, which regulates the import of foreign periodicals in bulk, and of films or records.)

2. Distribution of non-periodical publications imported from abroad is controlled by the appropriate state organ.

3. The appropriate state organizations have a monopoly on the export and import of films and television programs (regulation number 31 of 1967).

4. The author's rights abroad (as well as those of foreigners residing in the Czechoslovak Socialist Republic) may be exercised only through the appropriate organization; it also applies to concerts and other musical activities.

e) Direct influence of the working people on state and other cultural organizations

There is no legal regulation that would enable the working people - who, according to the Constitution, have all the power in the state - to influence directly particularly the activities of state organizations such as radio, television, the film industry, the post office, theaters, musical organizations, etc. and in that manner influence the orientation, quality, scope, and organization of programs, staffing and technical equipment etc. (in the area of distribution of periodicals, non-periodical publications, etc.).

-- Some criminal violations and misdemeanors are formulated in such a general way and in such vague terms that citizens can never be sure that their expression of a certain opinion is not in fact a violation of the law. Such certainty, however, is sine qua non of a conscious attitude of citizens of all states, and a fortiori in a socialist state. Since there is no preliminary censorship, such certainty would provide a guideline for the activities of citizens. It would be, therefore, important to distinguish between the sphere of basic interests of the society (protection of a republican form of government, administration of the state according to the principles of socialist democracy, protection of fundamental rights and freedoms of citizens, etc.) and the sphere of unfettered expression of one's opinions, freedom of thought, conscience and religion, etc. The first segment of the special part of the Penal Code, particularly articles 98-104 and article 112 must be changed accordingly.

10) Freedom of peaceful assembly

(Article 21 of the Covenant on Civil and Political Rights; freedom of assembly, freedom of public marches and manifestations are guaranteed by article 28, paragraph 1 of the Constitution). According to the Covenant, this right must not be limited except for limitations stated by the law and which are necessary in a democratic society for the protection of national security, public order, public health and morals or rights and freedoms of others.

Compare the following in this context:

-- The basic legal regulation safeguarding public manifestations includes only the duty of advance notice; preliminary authorization is, therefore, not required for a public manifestation (law number 68 of 1951, regulation number 320 of 1951). According to the interpretation of the Minister of Internal Affairs (his regulation of December 20, 1951, intimated under the number 969 of 1951, circular for the regional National Councils, KNV) state

organs are authorized to delegate their representatives to attend such manifestations. These representatives may disband such manifestations, if illegal events occur or if the manifestation begins to threaten the people's democratic system or public order (this interpretation is based, in the absence of appropriate legal regulation, on the fact that para 24, section 1 of the May 9 Constitution may be applied directly).

-- Law 126 of 1968, concerning some temporary measures for strengthening public order, which is in force (para 1) states that the appropriate state organ is authorized to prohibit or, if necessary, to disband a public meeting, manifestation or a parade, if the orientation or progress of such a public gathering might endanger important interests of the state in the area of foreign policy, if the public meeting were at variance with the law, if it were directed against the socialist order, or if it endangered public order in any way.

-- The legal steps leading to the disbandment of a public meeting, manifestation or a parade are taken by the State Police Force, SNB, on the basis of a decision of the appropriate state organ (the National Council). The police force can take these legal steps even without a prior decision by the appropriate state organ provided the participants in a public meeting, manifestation, or parade are committing a criminal act, a misdemeanor, or a violation and if the police immediately notifies the appropriate National Council (para 40, law number 40 of 1974).

What was concluded about the essence of violations, misdemeanors and criminal acts applies here. Hooliganism as a criminal act (para 202 of the Penal Code) and its interpretation deserve special attention.

ii) Everyone has a right to associate freely with others as well as the right to establish unions for the protection of his interests or join such unions

(Article 22 of the Covenant on Civil and Political Rights, further article 8 of the Covenant on Economic, Social and Cultural Rights -- Cf. article 5 of the Constitution which regulates the standing of volunteer community organizations.)

The exercise of this right must not be, according to the Covenant, limited in any way. An exception is made for limitations which are stated by law and which are necessary in a democratic society, in the interests of national or public security, protection of public health or morals, or protection of the rights and freedoms of others.

Compare the following in this context:

-- The Czechoslovak Legal Code recognizes in particular:

a) Volunteer organizations such as the women's organization, youth organization, physical training, cultural and scientific associations; the appropriate state organ must approve the regulations of an organization in order for it to be established (conditions are not stated.)

b) Associations which had been established prior to October 1, 1951 are to change their status to organizations or join them; they can also be disbanded by the decision of a state organ if, according to the state organ's opinion, the association "does not further the building of socialism or if it indeed slows it down."

(The law number 68 of 1951, regulation number 320 of 1951; the existence of some volunteer community organizations is directly established legally; for instance, the Czechoslovak Red Cross, and hunting, fishing and paramilitary organizations, etc.)

c) Labor Unions are not covered by the regulation pertaining to volunteer organizations (law number 74 of 1973). No authorization is required for a labor union to be established (this area is not regulated by law).

d) The law number 68 of 1951 does not cover even political parties. Their standing, therefore, since the National Front law number 128 of 1968 has been cancelled by law 146 of 1970, is not regulated by law.

e) The standing of churches and religious associations is governed by special regulations.

-- The state takes care of the development of organizations, creates favorable conditions for their activities and growth, and insures that their development will be in accordance with the Constitution, as well as with the principles of the people's democratic system (para 4 of the law number 68 of 1951). The right of the appropriate state organ to disband an organization used to be derived directly from para 24 of the May 9 Constitution (detailed regulation is lacking).

-- According to para 2, law number 126 of 1968 on some temporary measures for reinforcing the public order, which is still in force, an organ of the state administration will discontinue the activities of a volunteer organization for a maximum of three months or it will disband the organization if its activities are directed against its independence and entirety, against the Constitution of the Czechoslovak Socialist Republic, against the socialist economic system, peaceful coexistence among nations or against important foreign policy interests of the state; the same will apply if the activities of the organization are otherwise at

variance with law and decrees provided that redress is impossible to obtain according to other legal regulations. The possibility of appeal against such decisions has been cancelled through a legal measure, number 99 of 1969.

-- The executive state organs apply in practice that, which in theory, is inadmissable; such as, for example, that registration can be denied or an organization can be disbanded if the activities of such an organization are similar to activities and purposes of another organization.

-- There appears to be a tendency in practice to force together volunteer community organizations; certain rights that generally belong to citizens are provided only if the person is a member of a particular community organization (that does not include factual advantages for which the citizens have united in the first place). Consider, for example, that local committees of the Revolutionary Labor Union represent all the employees of an organization even if they are not all members of the Revolutionary Labor Union; monopolistic organizations of artists issue certain legally relevant opinions on taxes, housing, author's rights and so on. Those interested in hunting, ham radio, motion pictures, etc. must be organized in specific organizations, otherwise they would be denied the necessary public-legal authorization. A person's membership in the Revolutionary Labor Union enables him to obtain insurance on damages caused while at work (or other types of insurance on membership in other organizations) etc.

12. The right and opportunity to participate in the conduct of public affairs without any distinction listed in article 2 of the Covenant on Civil and Political Rights and without groundless limitations (article 25 of the Covenant). This is a realization of principles expressed in detail in Czechoslovak constitutional documents, particularly article 2 and 3 of the Constitution (all power belongs to the working people; representational structure; derivation of authority of all remaining organs of the state from the authority of the representational bodies, the right to vote and, in articles 1 and 2 of the Constitutional Law number 143 of 1968, particularly the principle of socialist democracy).

Compare the following in this context:

-- There is no legal regulation that would guarantee that citizens would be fully informed about the activities of the state in the political and economic spheres (publication of a detailed outlay of the state budget, the final account of the balance of trade, and other documents expressing the true state of affairs, and the right of access to unpublished data and documents).

-- Article 25 of the Covenant also covers the execution of administration in the territorial components of the state and suggests the need for an analysis of problems pertaining to local self-administration (cf. the results of the United Nations seminar, "participation of the citizen in local administration as an instrument of progress in the sphere of human rights," Budapest, June 1966).

13. All are equal before the law and have a right to the same protection by the law without any discrimination whatsoever (article 26 of the Covenant on Civil and Political Rights: according to article 20 of the Constitution all citizens have equal rights and equal duties; they should be provided with equal opportunities in all areas of the life of society. Also article 2, paragraph 2 of the Covenant on Economic, Social and Cultural Rights.

Consider the following in this context:

-- According to the quoted article, the law is supposed to prohibit any discrimination and to guarantee all persons the same and effective protection against discrimination for any reason whatsoever, for instance, race, color, sex, language, religion, political or other persuasion, national or social background, economic status and family origin. The Constitution of the Czechoslovak Socialist Republic proclaims in article 20 absolute equality of all citizens. In concrete laws, however, these principles are not usually explicitly stated. This may result in discriminatory interpretation of individual and generally formulated regulations by the state organs (providing of privileges is also a form of discrimination). The same applies also for everyday activities of organizations, particularly employee organizations. The quoted principle must, therefore, be already applied during the legislative process.

14. The rights of ethnic, religious or linguistic minorities (article 27 of the Covenant on Civil and Political Rights).

Compare the following in this context:

-- Regulating laws anticipated by the constitutional law number 144 of 1968 concerning the status of nationalities in the Czechoslovak Socialist Republic have not been passed. Principles of the constitutional law cannot, therefore, be substantially applied to practice.

15. The right to work (article 6 of the Covenant on Economic, Social and Cultural Rights; article 19, paragraph 2 of the Constitution).

Compare the following in this context:

-- There is no legal regulation which would guarantee everybody's right for the opportunity to earn one's living by work which has been freely chosen and accepted without any discrimination whatsoever according to race, color, sex, language, religion, political or other persuasion, national or social background, economic status, and family origin (article 2, paragraph 2 of the Covenant). Procedure controlled by regulation para 5 of the governmental decree number 92 of 1958 or by social security regulations does not suffice. The citizen does not have an enforceable right to obtain a recommendation from the National Council and he does not have any other legal means to obtain a statement that he has not been accepted for a job due to discrimination.

-- The regulation whereby contracts are terminated by an organization is not sufficient as long as it, in violation of the Covenant on Human Rights and the Constitution, admits a possibility that circumstances that have nothing to do with the nature of the job constitute the grounds for the termination of the contract.

-- There is no legal regulation which would ensure "equal opportunity for all to be promoted at work to the appropriate higher position while no other criteria but the length of employment and ability will be applied" (article 6, letter c, and possibly letter e of the Covenant on Economic, Social and Cultural Rights).

-- Article 19, paragraph 2 of the Constitution concerning the duty to work could also be interpreted as being in violation of the ban on forced labor according to article 8, paragraph 3 concerning civil and political rights. According to article 9 of the Constitution, very small private enterprises where only the owner is employed and the exploitation of another person's work is excluded are permitted within the boundaries of the socialist economic system. Since the tradesman (capitalist) system has been abolished by the Labor Code, legal regulation covering this sphere is missing which resuits in a serious, legal uncertainty. (Regulations concerning some services and the maintenance authorized by a National Council, governmental decree of March 3, 1965, published as number 20 of 1965 have no basis in law and no force of a legal regulation even though they are, mistakenly, taken as such by the state organs).

16. The right to strike, (article 8, paragraph 1, letter d of the Covenant on Economic, Social and Cultural Rights).

Consider the following in this context:

-- The right to strike, according to the Covenant, should be exercised in accordance with the laws of the state. However, this law concerning the right to strike and the exercise of this right has not been passed.

-- Some provisions of legal regulations, for instance of the Labor Code (concerning work discipline) and penal regulations (para 8 of the law number 150 of 1969 concerning misdemeanors and so on) may create an impression that the strike is in fact a legal delinquency. Some related labor-legal questions have not been solved in the area of damage compensation (para 173, item 3 and others of the Labor Code). It should be added that the World Labor Federation during the seventh meeting of its General Council in December of 1954 in Warsaw accepted the Charter of Labor Union Rights. The latter states that the right to strike is an essential right of the working people and that to organize a strike or to participate in it must not result in any repressive measures.

17. The right to education (article 13 of the Covenant on Economic, Social and Cultural Rights; compare also article 24 of the Constitution. Compare the following in this context:

-- Selection of students carried out during the admissions process for secondary and other schools, according to valid, legal regulations, limits the exercise of the generally guaranteed right to an education to persons who have been admitted; furthermore, it does not provide guarantees that there will be no discrimination (providing of privileges) which is in violation of article 2, paragraph 2 of the Covenant on Economic, Social and Cultural Rights.

18. Freedom of scholarly research and creative activities (article 15, paragraph 3 of the Covenant on Economic, Social and Cultural Rights). Compare the following in this context:

-- The formulation of article 16, paragraph 1 of the Constitution stating that "all cultural politics in Czechoslovakia, advancement of education, upbringing, and tuition are guided in the spirit of a scientific world outlook and Marxism-Leninism," could create an impression that this regulation is in violation of the obligation of article 15, paragraph 3 of the Covenant and of the freedoms and rights guaranteed by the Covenant on Civil and Political Rights.

Research is carried out particularly in universities and the Academies of Sciences. It is, therefore, necessary to consider whether legal regulations strengthening the influence of the state organs on the activities of scientific institutions correspond with the requirement of free scholarly research (compare particularly the legal regulation number 26 of 1970 which changes and complements the law number 54 of 1963 concerning the Czechoslovak Academy of Sciences; law number 163 of 1969 changes law number 19 of 1966 concerning universities). This is connected with the question of the origin and termination of work contracts of scholars and teaching scholars, the question of publication of scholarly works and so on.

A similar situation exists also in the area of art (the status and the sphere of action of artists' committees, cultural funds, and various organs and organizations active in this field, enforcement of copyright laws, etc.).

19. The Czechoslovak Republic abstained during the vote on the General Declaration of Human Rights in the General Assembly of the United Nations in 1948. However, both Covenants explicitly refer to the Declaration. According to contemporary international law, it is possible to assume that even the Czechoslovak Socialist Republic is bound by article 15 of the Declaration according to which "everybody has a right to a nationality; nobody can be arbitrarily deprived of his nationality and his right to change it."

From this point of view it would be helpful to review the current, very doubtful and complicated regulation concerning citizenship, particularly because the state organs have been authorized to deprive persons of their citizenship (there should be a clause authorizing the withdrawal of citizenship solely on the basis of the circumstances stated by the law with a provision which would prevent statelessness and otherwise ensure that this regulation would correspond with the rules of international law).

Prison Conditions

Document No. 16

To the Federal Assembly of the Czechoslovak Socialist Republic, to the Czech National Council, the Slovak National Council. Copies to: the Penological Research Institute (Director - Dr. Cepelak), Administration of Correctional Education of the Czech Socialist Republic, Praha 4-Nusle, Taborska 988.

The International Covenant on Civil and Political Rights, which came into force in Czechoslovakia on 23rd March 1976, lays down in Articles 9 and 10 certain principles concerning the conditions of custody and imprisonment. By decision of the supreme bodies of the State these principles as well as all other stipulations contained in the Covenant are binding for the whole of Czechoslovak society, and both the State and all the citizens have the duty to observe them. In this connection we deem it correct and necessary to point out that the Czechoslovak Code of Criminal Procedure (i.e. the law governing court proceedings) is not in accordance with certain provisions contained in the above-mentioned Articles of the Covenant. What is even more serious is that the conditions of custody and imprisonment also largely violate other legal provisions which determine these conditions, in particular the relevant stipulations of the Constitution, the Code of Criminal Procedure, the Penal Code and the Law on Imprisonment. In this document on the prison system, we intend to point to the violations of the law and of human rights (1) in this sphere and propose certain measures designed to remedy this state of affairs.

1. CUSTODY

"Anyone arrested or detained on the basis of criminal charges shall be brought without delay before a magistrate or another official invested by law with the powers of a judge, or shall be entitled to be tried (2) within an appropriate time to be released. Persons awaiting trial shall not as a general rule be detained in custody..." (cf. the Covenant Article 9, paragraph 3). Under the Czechoslovak Code of Criminal Procedure "custody shall be ordered by the court or, in the course of investigation by the law of the Procurator's office. In fact, however, investigations generally last several months (cf. Article 71 of the Code of Criminal Procedure), and they are known to have taken more than one year (3). Throughout this period, the Procurator or superior procurator is authorized to order detention in custody. But the Procurator is not empowered to exercise court authority since the law requires him to be an independent official, which, under the Czechoslovak Legal Code the Procurator is not (cf. e.g. the Law on Procurator Office, which clearly stipulates the subordination of the Procurator to a superior Procurator).

It is true that complaints against the ruling of a Procurator on custody are dealt with by a court (article 146a of the Criminal Procedure Code); but this is done in closed session without the presence of the defendant (cf. the above-mentioned clause of the Covenant: "...shall be brought without delay before a magistrate..."). Moreover, if the period of custody is extended by the Procurator-General his ruling is final (Article 141, paragraph 2 of the Code of Criminal Procedure)(4). The Code of Criminal Procedure, furthermore, does not stipulate a maximum length of custody (cf. the above-mentioned clause of the Covenant) before the expiry of which the defendant must be released or brought before a court to assess his guilt and offer him legal guarantees.

It is, therefore, evident that the discrepancies between the Code of Criminal Procedure and the above-mentioned provisions of the Covenant can only be eliminated by amending the Code of Criminal Procedure, which should stipulate that decision on custody shall in future be taken solely by an independent judge or by another official with the powers of a judge whose independence would be guaranteed by law. In addition, the upper limit of the duration of custody should be set.

We also regard as insufficient the legal provision under Article 67 of the Code of Criminal Procedure on the grounds for custody which are formulated under Sections "b" and "c" so loosely and vaguely that the Procurator can, with a touch of rhetoric juggling, justify the detention of anyone subjected to criminal proceedings. That is why we propose an adjustment which would stipulate that the grounds under "b" or "c" should be invoked only against those who have demonstrably attempted to obstruct investigations even after charges have been made, or have subsequently proceeded with their criminal activity. Both sides -defendant and the investigator - would participate in the gathering of evidence on grounds for custody (under "a", "b" and "c") before a court or independent official with the powers of a judge.

It is true that a defendant is not inevitably remanded in custody even in Czechoslovakia, but it occurs frequently, and the Code of Criminal Procedure makes this possible. The statistics published by the authorities do not state the number of defendants in custody; but according to a responsible estimate, their number has been fluctuating between 5,000 and 8,000 in the past few years. With an average duration of custody - including detention during the trial - of three months, this means that between 20,000 and 30,000 persons are remanded in custody every year. This, furthermore, means that in recent years 50-75 percent of the persons charged with crimes or offences who were subsequently sentenced to unconditional terms of imprisonment had been taken into custody (5). This high and probably rising percentage of cases of custody is influenced by increasingly longer sentences of imprisonment.

Special mention should be made of the unlawful practices adopted by National Security Corps bodies in cases of detention and arrest. Under certain circumstances specified in the Law on the National Security Corps an official of the Corps can detain anyone violating public law and order for up to 48 hours; under the Code of Criminal Procedure, the National Security Corps investigator can in exceptional circumstances also detain for 48 hours anyone under well-founded suspicion of having committed a crime and again in exceptional circumstances he can detain him for another 48 hours on charges of having committed a crime, before the Procurator decides on custody. These provisions are frequently misused: not only those who violate public law and order are detained, but other persons as well (6). The exceptional circumstances governing the detention of a suspect or defendant are not respected and legally permissable exceptions have become unlawful practice. The provisions are also violated by the duration of interrogation not being included in the duration permitted by law and by the fact that relatives are not informed of detention exceeding 24 hours, etc. (7). Detained and arrested persons who ought to be protected by the presumption of innocence, are kept in so-called preliminary detention cells in unhygenic and degrading conditions (8).

We propose, therefore, that the provisions on detention should be rescinded on the grounds of their unconstitutional character and the difficulty of exercising public control over their implementation. As regards the detention of a suspect or defendant, we propose amendments which would guarantee observance of the exceptional nature of these measures and provide for their effective public control. We also propose a substantial reduction of the 48 hour time limits.

The law stipulates that "no one shall be regarded as guilty unless and until found guilty by the valid verdict of a court of Law" (Article 2, para. 2, of the Code of Criminal Procedure) and it goes on to stipulate that "while in custody the defendant shall be subjected only to such restrictions as are necessary to ensure the adequate implementation of criminal proceedings" (Article 360, paragraph 2 of the Code of Criminal Procedure). It also stipulates that the authorities conducting criminal proceedings must fully observe human rights guaranteed in the Constitution (Article 2, paragraph 4 of the Code of Criminal Procedure). But these legal provisions are systematically violated. This is demonstrated by the following description of conditions existing in custody. Individual sections of it can be compared with the provisions of the Code of Criminal Procedure quoted above.

The most frequent practice is physical torture of common crime suspects by members of the National Security Corps even before remanding them in custody, especially if the culprit is caught in the act or if he refuses to confess and the official is convinced of his guilt. After charges have been proferred, investigators resort to physical torture only in exceptional cases (9).

but the regime of custody imposes so many restrictions on the defendant that some of them maintain that the conditions of imprisonment even in the second or third corrective educational category (10) are more bearable than those prevailing in custody. In custody defendants are placed in cells which are locked throughout the day (11). Four or five times a week (sometimes even less frequently) they are taken out for 30 minutes, at times for even less, to a courtyard mostly with an area of barely 10 square metres. They are allowed to send one letter only once a fortnight (that is how the prison administration arbitrarily interprets point 13 of the unlawful rules - see Appendix). This is censored by the prison administration as well as by the investigator according to arbitrary criteria ("he is not allowed to write about the situation in prison and about his fellow defendants" - of point 3 in the Appendix). Letters often take many days and even weeks to reach their destination, they are arbitrarily confiscated, and other postal communications are excluded with minor exceptions (see points 20 and 21 of Appendix). Yet the censors are backed by the law only if the grounds for custody are the fear that the investigation may be frustrated by influencing witnesses, co-defendants, etc., and this fear should be the sole criterion for the confiscation of a letter or part of it. The prison adminstrations which censor letters from defendants who are in custody for other reasons are committing a criminal offense.

Only once a month does the defendant have the right (which he may be denied) to receive a food parcel of up to 5 kg. Its contents are subject to numerous restrictions. The defendants are not entitled to receive visits from relatives unless authorized by the investigator. They have the right to a shower and a change of underwear only once every ten days. They are virtually forbidden to wear their civilian clothes. In defiance of their wishes their hair is cut short and beards are shaved off. They are not entitled to choose books. There is one allocate book per week per defendant in a cell. The prison administration prevents the sending of books, including legal regulations, in parcels. The only legal regulations generally available are the Penal Code and the Code of Criminal Procedure from which the prison guard reads out on request a passage in which the defendant is interested; the defendant must remain standing and cannot take notes. Defendants are allowed to purchase an exremely limited range of foodstuffs, toiletries or tobacco only once a fortnight (13), and even this right can be restricted or suppressed altogether. Defendants are not allowed to keep any personal belongings in their cells with the exception of purchased or received foodstuffs, certain toiletries (but not shaving accessories), legal regulations (which are however, virtually unobtainable), the latest letter from a relative (the administration allegedly destroy all previous ones) and a few authorized photographs. They are not allowed to lie down between 6 a.m. and 7 p.m., they are not permitted to sit down or smoke in the presence of a guard, they have to stand at attention and report in a military manner, fold their blankets and sheets into so-called "boxes," just like in the Prussian army, and so

forth. The prison guards are organized in the so-called Corrective Education Corps along military lines. Members of the Corrective Education Corps also serve in Corrective Educational Institutions where convicted persons serve their sentences. The usefulness of their service in prisons is, of course, hard to justify since there can be no question of "correcting" defendants who must be regarded as innocent. The members of this Corps are often influenced by the nature and conditions of their occupation, for the choice of which one needs a certain mental disposition. That is why the proportion of unrestrained explosive psychopaths or even people with sadist inclinations is roughly equal among the guards and the prisoners. This is the source of frequent conflicts. Moreover, the guards have the right to beat the prisoners - a right derived from the custody regulations (see point 6 of the Appendix). Even though ten specifically mentioned forms of physical torture (the more frequent being beating with a truncheon or splashing tear gas into the eyes) may only be used against someone who despite previous reprimands or admonitions continues to frustrate the purpose of custody, guards often resort to torture without these grounds, especially on minors (between the ages of 15 and 19, of whom there are relatively large numbers in custody) and against young defendants (roughly up to the age of 25, who form an absolute majority in custody) and against gypsies. Physical torture of female defendants is particularly inexcusable. Male members of the Corrective Education Corps are currently on duty outside cells where women are being held, and they peer into the cells and watch women attending even to their hygienic needs. On the other hand, female guards are sometimes on duty in male corridors. For violating regulations - often in a conflict provoked by the guard - prisoners are punished under these regulations but in violation of the law (see point 4 of the Appendix), including by solitary confinement up to 15 days (14). In some cases, collective punishment is meted out or the cell "commandant" is punished for something he has not committed.

With the support of the supervising procurator, the prison administration unlawfully prevents the defendant's counsel, who is simultaneously his legal counsel, or another lawyer acting in a similar capacity from intervening in his favour in conflicts with the prison administration or if the prisoner claims his rights in connection with his detention. Owing to an inconsistent defense or to obstacles created for the defense counsel by the investigator - which is usual in political cases - the defendant most frequently meets his defense counsel for the first time two or three months after being remanded in custody, often only after having been informed of the result of the investigation.

In this connection, we demand that the legislator should set up an independent arbitration body whose activities would be under the supervision of the public (mass organizations, the mass media, civic initiative groups and committees) and which would solve conflicts between the prisoner and the prison administration and deal with complaints from prisoners about conditions in custody.

Even a court could act as such a body: in any case, the legislator should enact a mandatory procedural code for such a body. The right of the defendant to attend a public hearing of the arbitration body, the right of the defendant to be represented by counsel, the right of the body to carry out investigations inside the prison and the right of the public (initiative groups) to participate in the proceedings (in the same way as a public defense counsel and prosecutor in criminal proceedings) should be enshrined in the procedural code.

Concerning conditions of custody we might add that the life of the defendant in the cell can also be influenced by the investigators, who are police officers (Public and State Security) and in some cases, officials of the prosecutor's office. When the prison is in a regional town, the State Security investigators offices are situated inside the prison building. The investigators can, for example, influence decisions on the type of cell, fellow-prisoners, textbooks, authorization to consult books on penal regulations. Without having to justify their decisions, they decide on visits to the defendants, on the allocation of work (where the prison exceptionally allows the defendant to work) etc. It is normal that investigators use these "powers" to bring pressure to bear on the defendant to give evidence and make a full confession.

The feeling of impotence and absurdity endured by the defendant is increased when in a number of cases, the defendant remains in custody for many weeks without any investigation proceedings or when after the conclusion of the investigations, he has to wait a long time for the trial. Defendants in custody are reduced to long periods of inactivity and kept in an atmosphere of emptiness and boredom. There are very few opportunities for entertainment, intellectual work, study, games, art or sport (if physical training in the cell can be so called), and their manipulation is one of the methods of tormenting defendants (15). Long-term sensory deprivation, bad nutrition, appalling conditions of hygiene, lack of exercise and fresh air as well as other conditions of detention influence the incidence of various mental disorders and diseases, but also of other complaints such as vitamin deficiency, skin and eye diseases, tuberculosis, hypertension, diseases of the spine, muscle fatigue, etc. Prison doctors are unable to administer prophylactic treatment since the causes of the diseases frequently lie in prison conditions. As regards the chance to work mentioned in the prison regulations (see point 22 of the Appendix) we have already pointed out that prisons provide them very rarely, and working conditions do not correspond to generally valid labour regulations.

Financial aspects and the livelihood of the families of the defendants form a separate and sad chapter. While the defendant is in custody, his family has no financial support, not even when he is the sole breadwinner. The situation is most difficult and even tragic in families with a large number of children especially where the wife is not employed. The wife has no chance to receive child benefit until the defendant has been tried and sentenced. In addition, the court demands payment of legal expenses which the prisoner pays in a lump sum (if the services of an expert or an interpreter have been needed, it amounts to Kcs 1,000); the legal advice centers charge the fees of the defense counsel even when he was court-appointed, so that the prisoner faces mounting debts. The payment of all types of benefit and allowances is suspended for the duration of custody and imprisonment, which is particularly critical in cases where the family depends entirely on such benefits. If a prisoner has to pay maintenance money his debt in this respect accumulates during his detention. If sentence has been passed (which happens in 99 percent of all cases of custody) the prisoner has to pay for his custody and this amounts to Kcs 20 per day (16). In complicated cases, i.e. in most cases involving the investigation of political offenses, the prisoner finds that he owes the State many thousand crowns on release (17). This must be seen as a further form of sanctions affecting not only the prisoner but also his family. There have been cases of impounded wages after the prisoner's release when he had not fully paid his installments (18). In this connection, we demand that the expenses incurred by criminal proceedings including the cost of imprisonment be covered by the State.

The conditions of custody are concealed from the public. The relevant authorities of the Ministry of Justice and Ministry of the Interior unlawfully seek to create the impression that the mere announcement of the state of these conditions would be punishable. In this connection they sometimes press the prisoners to sign various illegal statements promising secrecy, they censor any mention to this effect in letters etc., (19), (20). Supervision over custody, which now comes under the procurator, should be widened and entrusted to a public body which would have the right to carry out investigations in prisons. Mass organizations and civic initiative groups should be specifically allowed to participate in the work of such a public body. The public should be able to carry out effective checks on the conditions of custody. The law should furthermore, specify the scope of action of such a public supervisory body and of the arbitration body mentioned earlier as well as of the forms of their cooperation.

While the conditions of imprisonment are governed by the Law on Imprisonment, there is no law governing the conditions of custody. The only legal regulation on conditions of custody under Article 360, paragraph 4 of the Code of Criminal Procedure, has already been mentioned. The detailed conditions of custody are set forth in an Order from the Minister of Justice entitled the Code of Custody, which is in stark violation of the Law (of the

above-mentioned legal provision of the Code of Criminal Procedure) and has never been made public. It is one of the legal regulations which are binding for a section of the society but are at the same time concealed. We note this with regret. Brief excerpts from this Code, which state certain duties and rights of the defendant in custody, are formulated in the so-called Prison Regulations displayed in every cell. Yet these regulations, the mere comparison of which with the above-mentioned legal regulations under Article 360, paragraph 2 of the Code of Criminal Procedure, significantly reveal that this unlawful state of affairs, have never been rendered public: Charter 77 does this for the first time in the Appendix to this document.

In this connection, we demand the legal regulation of the conditions of custody either by expanding the Code of Criminal Procedure or by a new law on the conditions of custody. Despite its general character, we regard the existing stipulations under Article 360, paragraph 2 of the Code of Criminal Procedure as a suitable basis for the proposed adjustment.

II. IMPRISONMENT

The number of persons serving prison sentences in Czechoslovakia in proportion to the country's population is several times bigger than in other advanced countries. In this document, we do not intend to analyze the causes of this phenomenon; we see it in the context of overall social conditions, in the feeling of alienation pervading society; in the fact that young people (who are those most frequently sentenced) see no prospects in their lives; in the fact that the punishment of imprisonment fails to fulfill its task of re-education and the majority of culprits eventually return to prison; in the lack of public interest in these problems which is, of course, linked with the absence of any effective public control of the prison system and with the fact that the latter's problems are taboo for the mass media. But in our view another reason is that the Penal Code regards as crimes a number of actions which are not regarded as such in other countries and that courts pass far higher sentences than those of other countries. It is a sad statistic that the number of persons sentenced to unconditional terms of imprisonment is constantly rising (21):

(a to d figures in thousands)	1962	1965	1969	1972	1975
a) Persons charged	64	74	65	148	138
b) Persons sentenced	61	72	60	139	114
c) of these sentenced to unconditional terms	14	20	12	44	40
d) Sentenced to suspended terms	33	37	35	53	40
e) c) in proportion to d)	0.42	0.54	0.34	0.83	1.00

These figures show that the number of persons charged and sentenced has been growing over the years but also that the proportion of those sentenced to unconditional terms of imprisonment has been rising. The higher number of persons sentenced to serve time is creating problems which cannot be solved even by the construction of new prisons (22).

Even though the Law on Imprisonment is based on the Constitution and the Penal Code and is in accordance with Article 10 of the above-mentioned Covenant ("all persons deprived of personal freedom shall be treated in a humane manner and with respect for the dignity of the human being"), the actual situation contrasts sharply with them. From the formal point of view, the formal objection could be made that the Law on Imprisonment is merely an outline and that the actual conditions of imprisonment are determined by an order of the Minister of Justice entitled Code on Imprisonment in Correctional Education Categories. This Code, too, is concealed from the prisoners and the public. The conditions of imprisonment are also laid down in further secret orders from the Minister of Justice which are not necessarily in accordance with the letter of the Law or may even contradict it (23). Most of the guards are unfamiliar with this law and, as a corps organized on a military basis, they accept the authority of their superiors. Many officials see this law as a document designed to placate the public (including international public opinion), or to cope with improper complaints from prisoners. True, the Law on Imprisonment - as distinct from the rules on custody - provides for control by national committees as well as civic control, which are to be performed by bodies of the two (Czech and Slovak) National Councils, but this control, if it takes place at all, is purely formal.

Just as the defendant in custody, the convict in prison has no guarantees of his legal position. His right to complain is restricted, what is more, the prisoner runs the risk of being punished for lodging a complaint, especially if it has been turned down. He is completely powerless in conflicts with the administration of the institution, as he cannot be represented by a lawyer in such conflicts. (The Administration of the Corrective Education Corps thus arbitrarily interprets, indeed denies, the legal stipulation under Article 15, paragraph 3 of the Law on Imprisonment: "the convict can obtain legal aid by a lawyer who within the limits of his power of attorney has the right to correspond with the prisoner or talk to him"). Dealings with the administration of the institution are not public and everything depends on the benevolence or arbitrary judgment of the Governor, education officer, case officer or guards. The personal attendance of the prisoner in court proceedings dealing with his possible civil lawsuit with the institution is extremely difficult. Bringing charges against a member of the Corrective Education Corps appears to be an absurd, though in theory, possible method. A prisoner's access to the supervising procurator, responsible for ensuring observance of legality in prison and respect of the prisoners' rights, is subject to the arbitrary decision of the

institute administration. Nor does the institution of supervising procurators on its own fulfill its function (24).

That is why we demand the amendment of the Law on Imprisonment. The new version ought to set out the differences of regime in the various imprisonment categories. It should stipulate which rights are denied to a prisoner, which are restricted and how. It should confirm that other civic rights are maintained and stipulate fundamental ways of their application. The new version would replace those clauses of the prison regulations which run counter to the law or circumvent the law, and it would abolish all other secret orders laying down certain conditions of imprisonment. The amendment should also take account of international covenants on human rights. We, furthermore, propose that disputes between the prisoners and the institute's administration should be dealt with by an independent arbitration body which would have prerogatives similar to those suggested for the proposed arbitration body on custody. The amendment should also ensure effective public control of the conditions of imprisonment which cannot be entrusted merely to the supervising procurator and representative bodies (commissions of regional national committees and bodies of the National Councils) (25) unless they have closer links with the public, encourage its interest in the problems of the prison system and enable public participation in the solution of these problems. That is why both the conditions of imprisonment and those of custody should be watched by a public control and supervisory body with the right to carry out investigations inside prisons and with the participation of mass organizations and civic initiative groups and committees. The new version would stipulate the forms of cooperation and participation of this public control body as well as of the control body mentioned previously. This new legal amendment would likewise create the conditions for the application of modern penology in practice, including experiments. We shall come back to certain questions connected with the amendment of the law when describing existing conditions of imprisonment.

The primary method of re-education is senseless military drill (26), exacerbated by a system of organized snooping (27), aimed at breaking the prisoner, at stifling his personality and consequently at simplifying the task of the guards. That is why discrimination of every kind is encouraged: against new arrivals in favour of those who have been in prison for a long time, against young prisoners in favour of older ones, against prisoners who keep their distance from guards in favour of those who adopt a devout attitude. The Administration frequently encourages the oppression of gypsies (28) by other inmates as well as the oppression of those serving sentences for sexual offenses and of homosexuals who in the homosexual act play the female part. The administration of the institution - this time without the participation of the other prisoners - discriminates in every way against those serving time for so-called anti-State crimes or those in whom the State Security is particularly interested (29).

Special attention must be given to medical care, which is generally inadequate as a result of indifference shown by institute administrations, particularly in places further removed from larger towns (30,31). It is also worth mentioning that a number of epileptics are placed among the other prisoners with virtually no concessions. Especially in the second prison category there are many prisoners suffering from psychoses (schizophrenia, manic depression, etc.) who should never be in prison but should undergo treatment.

Imprisonment in Czechoslovakia automatically means forced labor. Refusal to work is punished by disciplinary action, legal transfer to a higher prison category and frequently even by further proceedings on charges of obstructing the execution of an official directive. The further term in such cases is usually between six and nine months. Work is generally boring and hard. The prisoners are compelled to work overtime to make up for shifts (even an hour) lost owing to idle time or a visit to the doctor. Failure to achieve expected output is punished by disciplinary action. The pace of work set by the output targets, is exhausting. Work frequently continues on Saturdays. Working conditions are in complete contravention of the Labor Code (there is no normal work contract) and of safety and hygiene regulations. The long-term performance of certain operations causes lasting damage to the prisoner's health. The low cast of the prisoner's labor is reflected in the evaluation of his person: for example, at the Preciosa plant in Jablonec, as well as in the Plzen-Bory or Minkovice prisons half the machines are idle during the day while at night they operate to full capacity to take advantage of the cheap night electricity rates. At the latter place of work every prisoner works night shifts two weeks out of every four, and morning and afternoon shifts the remaining two weeks. The system of remuneration for prisoners is utterly inhuman and illegal (from the point of view of legal provisions under Article 29, paragraph 1 of the Law on Imprisonment). Wage regulations are kept secret. In a number of cases, prisoners receive a lower wage than ordinary workers. Often they receive no night shift pay. Certain jobs have long ago ceased to be performed outside and the prisoners are paid rates which were valid in the 1950's. That is how in certain cases (for example at the Koh-i-noor works) the monthly wage amounts to a mere Kcs 450 or less, even when the output target has been fulfilled 100 percent. The average wage (except for mining) is less than Kcs 1,000 a month, i.e. under 40 percent of the average wage in Czechoslovakia. Where the employer for whom the prisoner had been working before his imprisonment dismisses him or where the prisoner had been out of a job before starting to serve time, the period over which he works while serving his sentence is not included in the time relevant to the length of his holidays or to the sickness benefit to which he will be entitled after his release (32). This punishment affects the majority of prisoners and its effects are felt years after release.

The new version of the Law on Imprisonment for which we are pressing should, therefore, stipulate clearly that working conditions in prison shall be governed by the general labor regulations including wage regulations. Work in prison should be considered regular employment with all ensuing rights. The law should, furthermore, lay down the minimum rates for work done for the institution. The new version should offer legal guarantees that its provisions shall be respected (public control and supervisory body, arbitration body, the participation of a hygiene officer and safety officer as well as of the trade unions, etc.)

Juvenile prisons for people between the ages of 15 and 18 are frequently only a transit station for youngsters released from so-called children's homes. The harshest of these homes differ from prisons in mere details. This example clearly casts doubts on the corrective purpose of the so-called re-education system. Corporal punishment is more frequent in prisons than in other corrective institutions. Their specific features include clans headed by "kings" who terrorize the others.

There are a few pregnant women in prison. Their condition is taken into account when deciding on custody and passing sentence; when the term is short the court generally pronounces a suspended sentence. Yet the very fact that pregnant women are imprisoned at all is a particularly outrageous example of the disproportionate application of the law. A petition for the remission of imprisonment or for release from custody can be turned down especially where the woman has been, or expects to be, given a long sentence. Unless a doctor decided otherwise, the confinement takes place on the prison premises.

When comparing the Czechoslovak prison system with the situation fifty years ago, it appears that there have been only few changes for the better. On the contrary, there has been an overall brutalization of conditions of imprisonment; military discipline has been introduced and prisoners must attend lectures on the advantages of "real socialism" and are supplied with legends on recent Czechoslovak history (33). Discrimination of political prisoners is another new phenomenon. The living conditions of prisoners have remained unchanged. Prisons are situated either in camp compounds or in buildings dating back to the last century or even further. The prisoners eat out of mess-tins with a spoon, they sleep on bunks, in some prisons they heat their cells in coal stoves and have to fetch their water in buckets (34). Their material conditions are deplorable: we have already spoken about their wages, but it must be remembered that 80-95 percent of the wages are deducted (35) to cover the cost of imprisonment and other items (36). Modern penology seems to have passed Czechoslovakia by. The role of prison education officers and psychologists - as far as these posts have been filled at all - is of a formal or administrative nature. We are again inclined to believe that this state of affairs is encouraged by a black-out on all circumstances connected with imprisonment and by the absence of public

participation in solving these problems. Since we believe that a free press, radio and television as well as schools, free artistic creation and scientific research would be of immense significance for highlighting the problems of the prison system, we once again insist on the need for changes leading to a greater freedom of speech.

The social position of a prisoner's family is generally catastrophic, especially in the case of large families. The reason is not only the prisoner's low earnings but also the fact that the prison administration entirely ignores these questions and refuses to provide his relatives with information on his earnings. Without a court order on the prisoner's duty to pay maintenance money (and to obtain such an order can take several months) the prison administration - at the prisoner's request in accordance with a surviving legal provision - sends a mere Kcs 100 - a month for every dependent child. Prisoners are in most cases held in prisons a long way from their home so that every visit causes the family considerable hardship. Discrimination at times affects the family as well (the wife in her job, the children at school, etc.).

Imprisonment, especially over a long period, has a socially destructive influence on most prisoners. After-care, that is to say, care for prisoners who have completed their term is absolutely inadequate and the system of probation officers ineffective. Released prisoners see it as an additional instrument of the repressive system and try to evade it. The Law on Protective Surveillance, directed against recidivists, has an exclusively repressive character; moreover, it is formulated in such a way as to be also applicable to released political prisoners, although the regime has so far not resorted to such a course (37). Physical torture of prisoners is less frequent than in custody but it does occur particularly after an attempted escape (38), an assault on a guard - often only verbal - and on other occasions. Humiliation is imposed by depriving the prisoner of every privacy. During personal searches, for which there are no legal provisions, the guards confiscate whatever they like, including notes, letters, poems, textbooks, quotations from books (39). These measures, affect political prisoners and intellectuals more than others. The absence of heterosexual intercourse also has a disintegrating influence. Masturbation is a widespread phenomenon among men. Around one percent of all prisoners are homosexual male couples with emotional ties. Roughly one percent of all prisoners engage in prostitution for payment. In women's prisons most prisoners form latent or explicit lesbian couples; in the second and third prison categories relations among these couples are marked by abnormal domination or submission. Homosexuality is more frequent under hard living conditions. Where it is accompanied by emotional ties it is frequently a desperate substitute for broken or frustrated previous ties. Prison conditions and a loss of prospects for the future only increase this emotional emptiness. The feeling of precariousness - in certain cases

exacerbated by a crisis in homosexual relations - leads the prisoners to numerous suicide attempts. Even though most of them are faked, many are genuine and some end in death (40). Some prisoners seek a relative alleviation or an opportunity to escape in self-mutilation; they deliberately cause an accident or demonstratively swallow metal objects and so forth. Drugs provide an illusory escape from the prison environment (41). The illicit manufacture of spirits is also fairly frequent. Mutiny is often a desperate revolt against inhuman prison conditions. The heavy sentences imposed under the Penal Code for those resorting to this type of revolt does not solve the situation (42). The reaction of prisoners described here are, of course, individual demonstrations by a few prisoners. The longer the sentence the harder the prison conditions, and the higher the prison category the more frequent and general are these demonstrations. For the moment it is impossible to disprove the hypothesis that it is imprisonment which turns a human being into a person with chronic anti-social manifestations. We reiterate our view that the constant humiliation to which the prisoner is exposed is a significant factor of his social disintegration (43).

In a society where the constitutionally guaranteed freedom of speech and freedom of religious belief are constantly violated they are violated to an even greater extent in the prisons. Religious services are not permitted. Churches and chapels have been abolished in prisons and corrective institutions. The prison administrations do not even tolerate religious rites (prayer, fasting, sermons, theological debates) which the prisoners could perform on their own. Where they do perform them they do this secretly to avoid disciplinary punishment. Political prisoners are forbidden to read political literature, except Marxist or pseudo-Marxist. However, even this literature is banned for Marxists serving prison sentences on political grounds.

A sociological analysis of the prisoners may be significant when assessing numerous problems pertaining to penology, the theory of law and other social sciences (including political science). It can be reliably estimated (statistics keep silent on the subject) that there is a far higher percentage of people up to the age of 25 among the prisoners than in society as a whole, people who have not completed their basic education, unskilled workers, workers in general, non-members of the Communist Party and gypsies. On the other hand, people holding a more prominent position in society are rarely found among the prisoners. This is fairly revealing of the nature of social conflicts and their solution as well as of the character of the regime.

Officials of the Ministry of Justice institutions often proceed from the mechanical and essentially incorrect assumption that punishment and the conditions under which it is meted out should have a deterrent effect. This explains why courts are encouraged to pronounce more severe sentences. There is even an official term for this: "punitive policy." The current trends of

this policy are evident: more verdicts of guilty, more unsuspended sentences than suspended ones, longer terms of imprisonment, fewer releases on parole. That is why the conditions of custody and of imprisonment have been steadily getting worse since 1969. For example, the right to wear one's own clothes while in custody has been abolished, the duration of exercise has been shortened, conditions governing correspondence and the receipt of parcels have been radically stiffened. The weight of parcels and the range of their contents have been restricted and letter-writing facilities have become worse even in prisons where contacts with relatives have been restricted: in the first person category visits are now authorized once every one to three months, in the second category once every six to eight months, and in the third category once a year. The duration of visits is generally one hour and only the closest relatives are given permission for visits (in the third category only one member of the family). The conversation may only deal with "family matters" otherwise the visit may be interrupted or cut short. Guards often behave rudely to the relatives.

Disciplinary punishment has also been gradually getting more severe since 1968. Prisoners are given disciplinary punishment relatively often for conflicts with the guards or with the prison administration. A frequent reason is failure of the prisoner to achieve his expected output. But in some cases he fails to do so because it is physically beyond him (44). The result is a cut in food rations, which again leads to a reduced work performance. The prisoner is deprived of so-called privileges, for example the possibility of attending selected film shows, watching television, etc. Actual disciplinary punishments include a reprimand, denial of the right to receive a parcel, a reduction of pocket money by up to 50 percent, confinement in a locked ward after working hours or throughout the day and solitary confinement. A specific punishment is confinement in a special ward for up to three months (in the third category for six months) (45). The so-called locked wards and solitary confinement blocks (the prisoner slang word "hole" is more appropriate to the conditions in these abodes) are generally damp, cold and the prisoners' clothing and blankets are utterly inadequate, ventilation and lighting are poor (the cells are generally in the cellars of the buildings or in so-called huts in camps). These conditions, together with malnutrition -especially a shortage of proteins - are a breeding ground for tuberculosis (46). The disciplinary punishment of all-day confinement in a locked ward for up to 20 days and of solitary confinement of up to 20 days (both punishments can be repeated in succession) as well as similar measures applied in custody are basically tantamount to imprisonment in a dungeon. The sum representing the daily food ration amounts to Kcs 3 to 3.50 (it has not been possible to verify the amount more accurately as it is kept secret), and the food must contain no meat (the gravy is strained to remove all traces of meat). Such a punishment can, if repeated, lead to the physical destruction of the prisoner. But even if such a punishment is limited to 20 days it causes damage and sometimes

results in serious harm to a person's health. In a civilized 20th century society such disciplinary measures must be regarded as barbaric punishment. The public is entirely unaware that this punishment, and specifically its conditions entailing drastic ration cuts, has been sanctioned by a secret order of the Minister of Justice issued in the second half of 1971 and the practice of applying it twice or more times in succession has been made possible by an amendment of the Law on Imprisonment passed in 1973 (Law No. 47/73 which, however, does not mention the size of rations.)

In this document we have made repeated reference to prisoners sentenced for so-called anti-State acts whom we inaccurately call political prisoners. This document discusses conditions in prisons and corrective institutions and does not deal with jurisdiction. Consequently, it does not deal with the different categories of sentenced persons. But we must point out that it is a lasting blot on the record of Czechoslovak society that people are sentenced for political opposition activities, for their stands and views and for political or other convictions which they have voiced. Statistics on sentences passed by Czechoslovak courts under Chapter I of the Penal Code (not including Article 109 - "leaving the country without authorization") which, of course, do not include a number of crimes of a political or similar nature, provide some idea of their number (47):

1958	4337
1961	2740
1964	757
1967	2512
1968	111
1969	942
1970	1576
1971	861
1972	582
1973	279
1974	272
1975	206

The overwhelming majority of political prisoners in Czechoslovakia have never used nor intended to use violence. Their incarceration is the object of protests by committed citizens and the world public. Before some substantial changes are brought about we demand that political prisoners without distinction should not be subjected to discrimination in jail, that they be placed together with prisoners serving sentences for non-political crimes. In the 1970's, certain prisons and institutions (Mirov, bory, Opava, Litomerice and Ostrava) set up political isolation wards, again on the basis of a secret order of the Minister of Justice. This isolation could not fail to have a destructive influence of the prisoners' health, especially in cases of long sentences (48). It is characterisitc that with small exceptions -

which were later corrected after complaints had been made - conditions even in these isolation wards were formally in keeping with the Law on Imprisonment. This indicates the "flexibility" and irrelevance of the law. It must be pointed out that most prisoners sentenced for criticizing the political system or its manifestations, for ridiculing certain phenomena, for conflicts with the police or State officials, for making an unsuccessful attempt to leave the Republic, etc., are placed among the rest of the prisoners (49). Only some are detained in political isolation wards (at the end of 1972 there were 120 persons in all) which is a special additional punishment determined not by the court but by the prison administration on instructions from the political police. It should be pointed out for the sake of accuracy that since December 1976 when Milan Huebl, Jiri Muller, Antonin Rusek and Jaroslav Sabata were released after a five years stay in prison, these political isolation wards were probably not used in any of the prisons or institutions until February 1978 when Jiri Lederer started to serve his term of imprisonment in Ostrava.

The abolition of political isolation and of all other discrimination of political prisoners is a significant step in the Czechoslovak prison system. The introduction of the status of political prisoners who would enjoy certain advantages would be a further humane act of the regime. Such a status will be part of a radical reappraisal of the notion that people are to be punished for non-violent political activities, beliefs or even expressed views. The status of political prisoners in many European countries (50) could serve as an example.

III. CONCLUSIONS

We propose that the Federal Assembly:

1. Amend the Code of criminal procedure to bring it in accordance with the International Covenant on Civil and Political Rights.

It is particularly necessary that the Code of Criminal Procedure should:

- stipulate that anyone detained on criminal charges shall be made to appear without delay before a judge or another official empowered by law to act as a judge, i.e. an independent official;

- lay down the upper limit of the duration of custody;

- state the grounds for custody more accurately;

- establish an independent arbitration body to solve conflicts between the prisoner and the prison administration whose functioning would be under effective public control;

- stipulate that the State shall cover the expenses of the legal proceedings, including those incurred in custody;

3. call on the mass media to help provoke a public debate on these problems;

4. increase expenditure within the framework of their budgets on the modernization of prisons and institutions, the modernization and demilitarization of the Corrective Education Corps (Prison Guards - tr. note), the improvement of the living conditions of prisoners, the promotion of penology and the application of its findings in practice;

5. implement temporary urgent legal amendments; abrogate unlawful orders of the Minister of Justices and unlawful provisions of the custody and imprisonment codes and replace them by more humane measures; abolish all discrimination not ordered by the court.

All these measures can be taken by both National Councils before the Code of Criminal Procedure and the Law on Imprisonment are amended and before the Law on Custody is passed by the Federal Assembly.

Charter 77 offers the legislative and executive bodies its cooperation in dealing with the problems of the prison system. It recalls that a Committee for the Protection of Persons Unjustly Persecuted was recently formed in order to fulfill some of the tasks of Charter 77 not merely by defending those who are subjected to unjust criminal proceedings, mainly for having expressed their convictions, but also those who are the victim of unlawful or inhuman treatment regardless of the grounds on which they have remanded in custody or imprisoned. The members and associates of this civic initiative committee and supporters of Charter 77 include many fellow-citizens determined to contribute to the solution of pressing problems of the Czechoslovak prison system.

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NOTES

(1) The account of conditions in custody and imprisonment would not be complete if it did not mention these aspects which do not lend themselves to legal analysis (the result of which is the proposed legal amendment). Apart from pointing out the inadequacy of legal regulations and their violation it is necessary to criticize other phenomena which, by their very nature, are linked with disregard of the innate dignity of the human being and which, being hard to specify in legal terms, are connected with the political and social system of society and with the existing level of social progress. Some of these phenomena cannot, of course, be regarded unequivocally as criticism of the existing political regime. They are much more a criticism of the present possibilities of society as a whole and of society's level of civilization. In many cases they are not even specific to Czechoslovakia or East Europe. This applies, for example, to the following problems mentioned in our document:

- broaden supervision over the conditions of custody and entrust this to a public body which would include mass organizations and civic initiative groups or committees, and thus provide for public control of the conditions of custody, i.e. with the help of the mass media.

2. Enact a legal amendment of conditions of custody either by enlarging the Code of Criminal Procedure - proceeding from the present Article 360, paragraph 2 - or pass a new law on custody. The amendment would list the rights which would be denied or restricted in custody.

3. Amend the Law on Imprisonment to:

- specify the regime of individual prison categories and the differences between them and stipulate which right shall be restricted or denied in imprisonment. In so doing it would replace most existing provisions contained in the Regulations on Imprisonment and abolish all inhuman stipulations violating the law and the covenants on human rights;

- establish effective social assistance to the families of prisoners and improve the social position of sentenced persons while in prison and after release, i.e. by stipulating that the working conditions (especially wages) of prisoners shall be governed by the same labour regulations (especially as regards wages) which are generally binding for workers and employers, and that work in prison should be viewed as a work contract with all ensuing rights;

- entrust supervision and control over conditions of imprisonment to a public body with the participation of mass organizations and civic initiative groups and committees, thus providing for public control of imprisonment conditions, i.e. with the assistance of the mass media;

- create the conditions for the application of modern penology in practice.

4. Stipulate explicitly that the amendment of the above-mentioned legal norms is the exclusive task of the legislator, and that all regulations concerning custody and imprisonment (orders, prison rules, instructions) must be public (for example in the form of orders of the Ministries of Justice).

We call on the two National Councils, the Czech and Slovak, to:

1. put down a question to the respective Ministers of Justice on the basis of this document concerning the conditions of custody and imprisonment;

2. publish reports on the progress and outcome of these questions;

- certain aspects pertaining to the treatment of persons in custody and in prison,

- the assessment of prison guards and their mental dispositions,

- aspects of recidivism, "punitive policy" as practiced by the courts and after-care,

- the description of certain conditions prevailing in prisons (military drill, informing, discrimination and privileges, imprisonment of juveniles and of pregnant women),

- the passage on the socially destructive influence of the prison sentence and humiliation, homosexuality, self-mutiliation and drug addiction,

- an account of the social structure of the prison population.

Although we are unable to propose methods of solving these problems, we believe that they, too, can be solved even though the present degree of social progress only allows partial or tentative solutions.

In our opinion, a remedy can be brought about by the participation of the public - especially, though not only, by those qualified - in the solution of these problems. A condition for such participation is an interest in these problems as well as a proper understanding of them. This requires freedom of speech and of the press, freedom of assembly, freedom of scientific research and artistic creation.

This document is, admittedly, somewhat heterogeneous. This has been caused by combining examples of "easily soluble" (or rather easily formulated) problems - regardless of whether we see their solution in legal amendments or in changes of political and social climate and practices - with examples of shortcomings for which the present regime carries only hypothetical responsibility. But this is perhaps compensated by a comprehensive account of the Czechoslovak prison system, an account which was part of our original and primary objective - to arouse greater interest in this range of problems.

(2) From what we have said it follows that the Covenant uses the term criminal proceedings to mean court proceedings. Under the Czechoslovak Code of Criminal Procedure, however, criminal proceedings commence the moment the relevant body issues a warrant for the instigation of prosecution, i.e. shortly after being notified that a crime has been committed. (It can instigate criminal proceedings against an unknown offender or prefer charges against a specific person). Criminal proceedings are divided into criminal prosecution which ends by a valid court verdict, and into

proceedings putting the verdict into practice when for example, the convicted person is serving a prison sentence. Criminal proceedings are terminated generally by the completion of a term of imprisonment. Criminal prosecution, too, falls into two parts: preliminary procedure which is inaugurated by the court prosecutor preferring charges. Since the above-quoted Covenant is part of the Czechoslovak legal system and in view of the desirability of uniform terminology we propose that the term "criminal proceedings" should be replaced in future editions of the text of the Covenant by "court proceedings" as this is the meaning clearly implied by the above-mentioned provison of the Covenant.

(3) For example, Ludek Pachman, Jan Tesar and Rudolf Battek were remanded in custody in August and September 1969 and preparatory procedure undertaken while they were in custody lasted until September 1970, when the procurator preferred charges to the court and, in accordance with legal provisions valid at the time, the court accepted them. (The case of these persons and of Karel Kynci did not come to court until the Summer of 1972, but Pachman, Tesar and Battek were not in detention between October 1970 and the end of 1971. Others implicated in this connection were never tried even though criminal proceedings against them have never been abandoned.) Some of the defendants in the case against Petr Uhl and associates were remanded in custody for more than a year while preliminary proceedings were in progress (from December 1969 till January 1971). Their custody was extended by a further six months following a court decision. The defendants tried in Prague, Brno and Bratislava in the summer of 1972 on charges of allegedly subverting the republic and incitement had spent up to eight months in custody ordered by the procurator. Long spells in custody are also frequent in cases of common crimes, especially when there is a large number of defendants, who refuse to confess, when there is not sufficient evidence, etc.

(4) The extension of custody is regarded as merely a formal matter. A defendant may be informed of the extension of his custody with a one-month or even longer delay, especially when the preliminary proceedings have been terminated and the court has not yet reached a decision on custody.

(5) In our estimates, we assessed the influence of a number of factors: only a low percentage of persons in custody are prosecuted merely for an offense. Certain defendants in custody are eventually given suspended sentences, sometimes the court even drops charges, etc. Some defendants are charged more than once in the course of 12 months. We used i.a. official statistics (Statistical Yearbooks), which indicate that in recent years suspended sentences have been given to some 40,000 persons a year.

(6) For example, under Article 23 of the Law of the National Security Corps dozens of Charter 77 signatories and their associates were detained in 1977 even though the circumstances of their detention (marching people off from their homes or places of work) could in no way be justified by the provision of this article "anyone...violating law and order...").

(7) Ivan Dejmal, for example, was detained from 10th to 14th February 1978; after the expiration of the first 48 hours he was detained again as he was about to leave the police building. But no charges were proferred even during the second 48 hours.

(8) See the article by Jaroslav Hutka "The trial", and the report by Otta Bednarova "How I went to visit Klement Lukes".

(9) Jiri Muller, for example, who was charged with allegedly subverting the Republic and remanded in custody in November 1971, was physically tortured by a police investigator during interrogation. In the course of investigations of political offenses this is evidently an exception. (There were signs of physical violence used on Pavel Kyba, a Charter 77 signatory, during his interrogation about Charter 77, under Article 19 of the Law on the National Security Corps in 1977).

(10) People are kept in custody in prisons of the Ministry of Justice. In the Czech Lands there are eleven prisons: Liberec and Litomerice for the North Bohemian region, Ostrov and nad Ohri for the West Bohemian (and partly the North Bohemian region), Plzen-Bory for the West Bohemian region, Prague-Ruzyne (predominantly for detention in custody ordered by the court) for Prague and the Central Bohemian region, Ceske Budejovice for the south Bohemian region, Hradec Kralove for the East Bohemian region, Brno-Bohunice for the South Moravian region and Olomouc and Ostrava for the North Moravian region. Slovakia has five prisons: Bratislava (The Palace of Justice) and Leopoldov for the West Slovak region, Banska Bystrica for the Central Slovak region and Kosice and Presov for the East Slovak region. Sentences are served in so-called corrective education institutions of the Ministry of Justice which are divided into three categories: Category I has a more lenient regime; Category II is particularly designed for convicts jailed in the previous ten years on charges of premeditated crime; Category III the strictest, is for dangerous recidivists (classified as such in the verdict) and for perpetrators of certain especially serious crimes (including certain crimes against the Republic). In the Czech Lands there are over twenty corrective education institutions and, with the exception of Plzen-bory and Praha-Pankrac, they are in buildings other than prisons. At the end of 1975, there were a total of 45 prisons and corrective education institutions in Czechoslovakia (not including subdivisions).

(11) In Prague-Ruzyne, for example, there are a mere six square metres for two and often three prisoners. In Brno-Bohunice cells are extremely badly ventilated (their area is 8.5 square metres and there are five to six prisoners per cell). Conditions in each prison vary to some extent but the basic restrictions are identical. Jaroslav Sabata had this to say: "On the first corridor at Brno-Bohunice five prisoners occupied cells for two. The cell became an outsize WC, especially in Winter when it was forbidden to open the window because of inadequate heating. Dishwashing and personal hygiene over the toilet pan are below human dignity. Once or twice a week the prison guards would bring the convicts shaving tackle. The razor blade was so blunt that shaving became sheer torture. Several dozen convicts had to shave with one single bad blade."

(12) For example, in 1972-73 Pavel Murasko and his fellow-defendants in custody at Kosice for 14 months were taken out for exercise twice a week on average. Sometimes they had no exercise at all for 16 days.

(13) In some places the value of purchases is restricted; at Brno-Bohunice, for example, to Kcs 60 a time (i.e. once a fortnight).

(14) Conditions of solitary confinement are the same as in imprisonment and we deal with them in the second part of the document.

(15) Prisoners cannot borrow books according to their choice and are frequently prevented from studying if they wish to do so. In certain prisons, the guards confiscate everything that is written by hand so that they destroy the result of many months of intensive intellectual work. There have been cases of prison guards obstructing the teaching of illiterates, preventing the mutual education of prisoners, language studies, etc. Guards arbitrarily or on instructions from their superiors forbid physical training in the cells, talking during exercise, sitting on the floor (even when there is a shortage of stools), leaning against the wall, resting one's head on the table or drawing the curtain round the WC. They can shorten showers, refuse to put the light on at dusk or, on the contrary, switch on the dimmed lights after "lights-out" (in custody the lights are kept on throughout the night). In some places, it is forbidden to sleep lying on one's back with one's hands on the blanket, etc. etc. Detainees in custody are forced to walk with their hands behind their back, to stand facing the wall, or stand to attention and report in a military manner. In reply to requests in these situations the guards' frequent answer is: "You should not have committed an offense" or "You will be allowed to do this after you have served your sentence;" they say this even to people who have not been sentenced. Humiliation takes on a variety of forms: women, for example, are only allowed clean underwear every ten days (they are forbidden to wash it) and get one packet of twelve sanitary towels a month; some

cannot look into a mirror for weeks and even months. In this respect, conditions in imprisonment are less harsh then in custody, but in some places it is the other way round. The criteria applied by the administration in certain prisons (for example, at Bory or in Minkovice) are cruelly absurd: if a guard finds a piece of paper with words in a foreign language the prisoner is placed in a locked ward since the administration considers this a preparation to escape. The same applies to any kind of map, for example, of ancient Greece.

(16) This includes a mere Kcs 6.50 to 7 (an estimate, the actual figures are kept secret) for a whole day's food. The rest is payment towards guarding, running costs, etc.

(17) For example, Petr Uhl, Jan Frolik and Petruska Sustrova receives Kcs 11,020, Jaroslav Suk receives Kcs 9,2000, Jaromir Litera Kes 3,5000 and so forth.

(18) This happened to Karel Cejka, Jan Sabata, Milan Daniel, Milan Silhan, Alois Vyroubal and others. Antonin Rusek had to pay the debt incurred by imprisonment before being released from Czechoslovak citizenship to emigrate to Austria in April 1978.

(19) The public has only a vague idea of conditions in custody. People are generally astonished that there are beds and books in custody, that defendants are allowed to smoke, etc. Often they do not realize that weeks and months of custody can produce mental hardship. This is pointed out, for example, in a letter to Gustav Husak by relatives of political prisoners on 1st March 1976 about prison conditions at that time. Since conditions in custody are virtually identical to those described in the letter here is part of it:

"Our relatives are subjected to long-term and cruel sensory deprivation: their world lacks the natural colors, sounds and impressions. Paucity or lack of new sensory impulses, long-term isolation, long-term forced company - all these conditions aimed to break a human being. As demonstrated by laboratory experiments as well as by the findings accumulated in Arctic or space expeditions, long-term sensory deprivation unsettles the human personality. Contemporary science admits that man has other vitally important needs than mere physiological requirements. Certain 'higher' needs are just as 'instinctive,' inborn and specific to the human species as the organic needs of food, water, etc. They include the need for security, communication, self-assertion, the need to see and to understand, the need for aesthetic values and self-realization. Maslow's theory is summed up by K.B. Madsen in The Theory of Motivation, Academica, 1972. 'Failure to satisty these higher requirements is just as much torture as classical torture.'"

(20) A testimony about insufficient rations and their bad quality is contained, for example, in a message from prison which was read out at a public hearing of the Plzen Regional Court on 23rd December 1977 during the trial of Frantisek Pitor and associates. The author of the message was Pitor's co-defendant, Alena Klimova. (They were sentenced to three years and one year imprisonment respectively for incitement under Article 100, paragraph 3a of the Penal Code, for distributing The Charter 77 Manifesto.)

(21) These figures have been taken from official statistical yearbooks which, naturally, do not publish a number of facts such as indications about custody, the length of sentences, the number of convicted persons in prison, the social structure of the prison population, etc. The first statistical yearbook that contained any information about the prison system was published in 1968. (It contains information dating back to 1958 and thereafter.) The yearbooks published in the 1970's contain less information. Certain indications, for example, the number of crimes under Chapter I of the Penal Code, are not trustworthy because the figures contained in yearbooks of various years are the same for that year but in one case with the note "Article 109 of the Penal Law not included" and in another case without that note.

(22) Although in recent years, (broadly speaking in the early 1970's) at least one large corrective education institution was built in Mlada Boleslav and another at Ricany was probably opened quite recently - and various subsidiary institutions are being set up depending on requirements - corrective education institutions as well as prisons are overcrowded. Prisoners are at times obliged to sleep on mattresses on the floor close together (there would be no room for an appropriate number of beds in these cells) or bunks (in certain prisons, such as Mirov, even three-tier bunks). At Ruzyne prison four people have been known to share six square metres, at Bohunice fourteen defendants were put in a cell for six inmates. Two defendants had to share one straw mattress even when one of them was suffering from an acute skin disease.

(23) There is, for example, a secret directive on conditions of imprisonment for political prisoners convicted in 1972, adopted specifically for this category. It subjected these prisoners (and others included with them) to a regime of constantly locked cells (with two to four prisoners in each) so that their prison conditions were, in fact, made even harsher by the duty to work (also in locked cells). The directive stipulated the most minute details of the regime, for example, for how long the radio was to be left on, and it was known to only a selected group of prison officers- the prison Governors and senior guards in wings.

(24) The supervising procurator in Plzen did not even reply to a complaint lodged by Jaroslav Basta and Jaroslav Suk in 1971. During an interview he told Zdenek Sumavsky: "Your mother thinks you an angel but you are a rascal." Jiri Muller arrived at the conclusion that by complaining a prisoner was knowlingly causing

himself harm. Where the complaint had been turned down the Governor would issue a disciplinary punishment on the grounds that the prisoner had retained a copy in his cell. Complaints are not acknowledged; if they are dealt with the prisoner receives nothing in writing but selected passages of the official reply are read out to him. The prison administration prevented Jiri Muller's lawyer (legal representative) from visiting him at Litomerice prison where he was serving a sentence in conditions of political isolation (cf. Note 23).

(25) The Law on Imprisonment No. 59/65 in conformity with amendments No. 84/69 and No. 47/73 states that it is the procurator's responsibility to ensure observance of legality in prison institutions, that bodies of the two National Councils are responsible for public supervision of imprisonment conditions (the Federal Assembly, which passed the Law on Imprisonment, did not even retain the power of exercising any supervision), that judges have a share in influencing convicts, that regional national committees (their commissions) participate in the reform of convicts, and finally that even mass organizations (i.e. the trade unions, the youth organization) at the prisoner's former place of work or of residence as well as the mass organizations of the factory where the prisoners work during their imprisonment also participate in the reform. The prerogatives of these institutions are graded: a decision of the prison administration can be annulled only by the supervising procurator who alone is authorized to issue binding instructions. Only the supervising procurator, the National Council commission or the judge are allowed to talk to the prisoner without the presence of a third party, while the competence of the judge is clearly specified in the Law on Imprisonment (discharge on parole, transfer to another prison category, remission of sentence, transfer to stricter isolation, etc.). Even though the Regional National Committee commissions have access to prisons, the law does not stipulate that they may talk to the prisoners. Mass organizations at the convict's former place of work or of residence may correspond with him and maintain personal contacts with him. But the law does not specify the conditions governing the participation of the mass organizations at the factory where the prisoner is working while serving his sentence.

These legal provisions are a dead letter. The procurator's supervisory role is a mere formality and if a prisoner compels him (by a complaint in writing) to deal with his case, he does so most reluctantly. He always seeks to cover up for the prison administration. His activity is subject to no public control and he is responsible solely to his superior procurator. Judges never go to see the prisoners and deal with these matters at so-called public sessions (inside the prison compound or building). The commissions of the National Councils and National Committees, if they manage to get further than the prison administration, dash through a number of cells and work places without stating where they come from, why they have come and what their rights are. They hastily ask: "Any complaints?" to which the prisoners either remain

silent or say something irrelevant. This is natural, as it takes place in the presence of the guards. The mass organizations of the prisoner's former place of work or of residence do not correspond with him and do not visit him (this applies to at least 99 percent of all cases). When they do make an attempt they soon realize that this is unwelcome. The mass organization in the factory where the prisoner is working can exert no influence because the prisoners work either inside the prison or in strictly guarded and isolated workshops which are out of bounds to ordinary workers, with the exception of foremen or other specified persons. Consequently, supervision over the conditions of imprisonment exists only on paper.

(26) The colors khaki and drab grey, prison uniforms, the equipment of the cells, roll-call, reporting, orders and disciplinary punishment - all this resembles military drill. Many situations are absurd, for example long drill exercises (about-turns on the spot and on the march), including for women convicts.

(27) This system has even been institutionalized, and its institution is absurdly called "self-administration" of the prisoners. The prison administration selects the members of the "self-administration" from among subservient or otherwise suitable prisoners. The special cell for members of the self-administration is generally called the "squealers' den." The prison administration frequently appoints prisoners serving long sentences, such as murderers or violent robbers, to the self-administration. This applied to the murderer Smozanica, who was in charge of the self-administration of block 1/2 at the Plzen-Bory prison in the early 1970's. He enjoyed a number of privileges including an annual fortnight's release and concentrated on checking on the contacts and remarks of political prisoners.

(28) The discrimination of gypsies in prison takes on a form of apartheid, i.e. their compulsory segregation from the rest of the prisoners: there are special cells for gypsies. At Rynovice, where the prison is of detention-camp type, there are two barracks, of which one is reserved mostly for gypsies, who go to different work places than the others, as building-site labourers.

(29) The discrimination of certain prisoners and preferential treatment given to others are also reflected by special uniforms or distinctions. Members of the self-administration generally carry some special identification. Prisoners under disciplinary punishment in locked wards or solitary confinement wear distinctive clothing. Dr. Pavel Murasko, imprisoned in Mirov, was made to wear green bands on his uniform which was a special identification of "dangerous" (but also some political) prisoners in 1973-74. This particularly humiliating measure has been in operation since the end of 1972.

(30) A prisoner died of blood poisoning from a perforated gastric ulcer in Mirov prison in 1972 because his fellow-prisoners were unable to attract the attention of a guard in the middle of the night. The same year the prisoner Betak died in the same prison as a result of a hunger strike. Dr. Ladislav Zadina became permanently disabled owing to delayed treatment of an accident. Lt. Col. Vaclav Jesensky from Hranice in Moravia, imprisoned on political charges, suffered a brain collapse in Plzen prison in 1972. The guard believed that he was malingering and instead of sending him to the clinic, transferred him to a locked ward. Criminal proceedings were even instigated against Vaclav Jesensky for remarks he had made to the guard in a state of delirium. The charges were later dropped. Conflicts in prison frequently lead to an additional term of imprisonment. Among the political prisoners of the 1970's, we know of the case of the historian Jan Svoboda from Ostrava who shortly before completing his two-year sentence for alleged subversion of the Republic (this referred to remarks made in private letters) was charged again in the summer of 1972 and sentenced to eight months for allegedly degrading the authority of the President of the Republic. He served this sentence immediately after completing the first. (He was again charged and remanded in custody at the end of 1973 for translating a letter into German for his friend. He was eventually released from custody but the whole matter is still the subject of preliminary proceedings although no investigations have taken place for the past four years.)

(31) Prisoners are allowed to see a doctor only once a week on a specific day. If a prisoner feels unwell on a different day especially during working hours, he runs the risk of disciplinary action should the doctor declare him unfit for work. At the same time the criteria applied by most prison doctors are determined by the repressive objectives of the prison administration (a temperature of up to 38 degrees Celsius is no ground for unfitness to work, a painful abscess is no obstacle to work, etc.). Dr. Sadilek, the chief medical officer at Plzen-Bory prison used to refuse permission for specialist treatment in the early 1970's even where it had been recommended by a specialist for internal diseases. At the moment he is treating Miloslav Cerny from Liberec (incitement in connection with Charter 77), suffering from post-traumatic epilepsy who, according to members of his family, is being denied medicine.

(32) Of course, leave and sickness benefits do not exist in prison. If the prisoner has been working prior to his illness and is unfit for work, he receives just Kcs 1 pocket money a day.

(33) To give an idea of this schooling to those who do not know the workings of a prison it should be pointed out that it is a parallel to the political part of so-called civil defense training for Czechoslovak citizens in ordinary life. Various lectures of a general educational nature are also given in prisons but the majority are of a low standard and at times even disorienting.

(34) Coal is used for heating in small stoves in the Mirov, Belusice, Oracov, Nove Sedlo (up to 1972), Vsehrdy and other prisons; water has to be fetched at Mirov and until recently even in custody wings at Pankrac.

(35) This was still in force in 1976.

(36) There is a complicated system of deductions. Priority is given to maintenance money based on a court order, the cost of imprisonment, installments to cover the cost of criminal proceedings and custody, compensation for possible damages determined by the court, so-called deposits (in most cases up to Kcs 50 a month) which are given back to the prisoner on discharge provided he has no debts with the State (otherwise he receives a maximum of Kcs 600). The pocket money left over and paid out in prison vouchers which the prisoner uses to shop in the canteen, subscribe to newspapers and pay a fee of Kcs 1 for every medical prescription, is extremely low, again up to Kcs 50 a month. Pocket money exceeding Kcs 100 is very exceptional for prisoners who do not work in the mines.

(37) Pavel Murasko, sentenced for subverting the Republic (the case was connected with opposition activities in neighboring Ukraine, especially the criminal case of Ivan Dzyuba and associates) was the target of an attempt of this type. In 1975 the procurator proposed protective surveillance of Pavel Murasko but Murasko was released before the court was able to give such a ruling. (The Law on protective surveillance denies courts the right to order such measures against a prisoner after his release.)

(38) The circumstances of a number of unsuccessful attempts to escape which are generally accompanied by shooting (the killing of Marinak and wounding of Froehlich at Bory in 1971, the case of Balcarek at Bory in 1972, are noteworthy for their "deterrent effect" on the other prisoners as are similar situations from the early 1940's and early 1950's. Collective punishment is meted out in many prisons in the event of a prisoner's escape or attempted escape even today. The prison administration apparently aimed at inducing fellow-prisoners to report those planning to escape.

(39) The Law on Imprisonment contains no provisions for personal searches of convicted persons. Cf. an analogous regulation under Article 82, paragraph 3 of the Code of Criminal Procedure; "A personal search of a detained person, or of a person to be apprehended or remanded in custody may also be carried out if that person is suspected of being in possession of a weapon or another object with which he could endanger his own or another person's life or health." The judicature (ruling 54/70) moreover stipulates that a police officer must have a warrant or the consent of the procurator even for a search under these circumstances, unless the personal search is the initial stage of criminal prosecution. However, this is not observed in practice. Everyone has to under-

go several personal searches when remanded in custody, during custody and in the course of imprisonment. Even if we were to concede that the above-mentioned legal provisions can be duly applied in the course of imprisonment by police officers, it is impossible to accept the arbitrary nature of these searches which, naturally, are not concerned merely with arms or objects harmful to a person's health.

(40) Official Czechoslovak statistics which give no indications about suicides nor about the number of persons serving terms of imprisonment, say even less about suicides of prisoners. Yet every year there are several dozen suicides ending in death. The circumstances surrounding some of them arouse doubt whether they were really suicides, as in the case of Marie Živna from Dvojanov, a student of the Faculty of Philosophy at the Jan Evangelista Purkyne University, who died in the spring of 1974 while in custody in Bratislava. She was charged in the criminal case against Alzbeta Daniskova and associates (subverting the Republic - the case of Fundamentalist Christians).

(41) The prisoners inhale ether and trichlorethylene, they swallow various drugs which they obtain in the most devious ways, they drink boiled tobacco and so forth. Drug addition is also punished by disciplinary measures.

(42) At Minkovice, for example, there have been at least two such mutinies in the past ten years, and one at Rynovice. The lives of the guards were not in the least endangered while those of the prisoners were. A mass complaint lodged by the inmates may also be considered a mutiny (Rynovice).

(43) In prison the inmates have to raise their military caps when meeting a guard. At Ostrov nad Ohri, where the corrective education institution consists of huts separated by roads and pavements, the latter were reserved solely for the guards in 1972, and may be still. When a prisoner is punished with round-the-clock confinement to a locked ward or solitary confinement, his hair is shaved off completely (introduced in 1973). The arrival of newcomers in prison is accompanied by a humiliating procedure when the convict is forced to strip naked, surrender all his belongings, take a bath and have his hair cut and is allowed to put on his prison clothes only after a considerable time. Similar humiliating procedures are used during detention and remanding in custody (cf. Note 39). During the week preceding his discharge from Bory prison in 1977, Miroslav Skalicky had his hair shaved off three times, the last time immediately before release, allegedly for reasons of hygiene. On the other hand, he was confined during that same week to the so-called locked ward where, as he recalled, he had a job to rid himself of "hygienic" rats at night.

(44) Inadequate rations contribute to this. When assigned to a job, the prisoner receives no pocket money since it is always paid on the 15th of each month for the previous month so that he is unable to better his lot by purchasing food in the canteen. Certain canteens do not stock cheap items which would raise the calory value of rations. In many prison canteens butter is not available; the Mirov prison sells no sugar; in the Minkovice prison there is no lard and so forth.

(45) Owing to inadequate information we do not refer to conditions in the category III prisons. In the Czech lands there are two such prisons: at Valdice near Jicin for men and Opava for women. The building at Valdice has landings where prisoners, after receiving a disciplinary punishment, are confined in locked wards after working hours, throughout the day or in solitary confinement. In addition, there are special punishment blocks as well as special strict security isolation wings. This is where specially deranged (intractable) persons are kept. The conditions under which they are made to live (in strict security isolation for six months up to two years) are appallingly cruel. Even the Law on Imprisonment states that while confined to strict security isolation, the prisoner receives no pocket money, is not allowed to receive parcels and is allocated to a job only where the prison administration considers this expedient. It is reported that in strict security isolation, there are two prisoners to a cell and frequent fights break out between them.

(46) The cells in locked wards and solitary confinement provide only for the most basic human needs, essential for survival. In some places, conditions are even worse than stipulated by the regulations. For example, at the Minkovice prison the cells have concrete stands instead of plank-beds on which the prisoners spend the night (that was the situation as recently as in 1976). At the Kynovice prison locked wards, sharp stones protrude from the concrete floor so that the prisoner has to stand or walk all day long. There is no furniture, only planks lifted against the wall during the day. When the buzzer goes the prisoner has to stand facing the wall. Guards punish disobedience by a beating with a truncheon or kicking. Certain guards leave the buzzer on for a long time, others bang on the cell doors during the night waking the prisoners and so forth. At Plzen-Bory prison there are locked wards where the guards turn the heating down or completely off during the winter months.

(47) In recent years people involved in unofficial culture or those indulging in a non-conformist style of life, have been prosecuted on many occasions for the crime of hooliganism. This applied in 1976 to the musicians, the Plastic People of the Universe, the DG 307 and other groups. In 1977 this charge was used against Jan Princ, and now against Ivan Jirous.

(48) A letter from relatives of political prisoners - cf. Note No.19 - says "In 1973-74, Dr. Jan Tesar suffered from chronic gastric complaints. He was examined for three weeks in the Brno prison hospital (gastric ulcers). In May 1974 he underwent an operation at Pankrac (acute appendicitis). Between August and November 1976, he had bladder trouble. He spent five weeks at the Brno hospital being examined for a disease of the pancreas (isotope examination)."

(49) They are normally subject to minor discrimination together with those who tried to leave the country illegally or those who do not behave in a subservient manner. Most of them are confined in proper rather than in prison camps. They are given worse jobs, and are not allowed to be included in so-called work parties sent to do jobs outside the prison. They are confined in cells (segregated) with a stricter regime. The differentiation in regimes - of which the court which sentenced the defendants naturally knows nothing - is by and large one of the principles by which the prison administration enforces discipline and obedience. The "worst" cell on the landing is deprived of all "privileges." It is kept locked more frequently. The greatest privileges are granted to the self-administration. Yet collective punishment is extremely current and this, in turn, encourages informing.

(50) Political prisoners in the USSR, too, have drawn up a status of political prisoners and many are trying to act accordingly. But the Soviet authorities have so far not recognized it.

Dr. Ladislav Hejdanek
Spokesman of Charter 77

Marta Kubisova
Spokesman for
Charter 77

Dr. Jaroslav Sabata
Spokesman for Charter 77

May 22, 1978

APPENDIX
PRISON REGULATIONS

1. Duties and rights of defendants

While in custody the defendants' duties are laid down in the Law on Imprisonment in addition to these duties emanating from the law and other legal regulations.

1. The defendant shall observe these prison regulations, obey instructions from members of the Corrective Education Corps of the Czech Socialist Republic, keep his cell and its equipment tidy and clean, conform with basic hygiene requirements, adhere to accepted standards in the area of his hair and beard, submit to personal searches, under the conditions mentioned in Article 82, paragraph 3 of the Code of Criminal Procedures, handle the property of the prison and of other prisoners with care, behave with courtesy to all persons with whom he shall come into contact (including his fellow-defendants), maintain quiet in the cell, stand to attention and report in the prescribed manner when members of the Corrective Education Corps of the Czech Socialist Republic or other persons enter the cells for a prison inspection. Members of the Corrective Education Corps or other persons visiting the prison shall be addressed in a formal manner as "Sir" or "Madam" or by their official title or rank (provided the defendant is aware of these).

2. The defendant shall take part in exercises lasting 30 to 60 minutes a day except on non-working days. The defendant shall dress for exercise according to the weather. Sick defendants and pregnant women shall take part in exercise only with the consent of a doctor.

3. A defendant shall not be allowed to establish unauthorized contacts with other defendants or persons not in custody or keep objects in his cell which could be used to damage his own health or that of persons or for escape purposes. He shall not rest on his bed outside the hours stipulated for resting except by special permission on health grounds or engage in self-mutiliation. In letters not addressed to bodies mentioned under point 20 he shall not write about conditions in prison or about other defendants and in his complaints use offensive language and deliberately state untrue facts. If a defendant systematically refuses food he shall be confined to a special cell of his own. If he persists in refusing food, measures under regulation 4 of Law 23 No.20/1966 on the care of people's health shall be taken.

4. If a defendant violates the prison rules or prison discipline, the following disciplinary action may be initiated against him:

a) verbal reprimand

b) withdrawal of the right to receive a parcel and prohibition to buy articles of personal use (with the exception of hygienic needs) up to one month (for adults) and up to two weeks (for young persons)

c) may be placed in solitary confinement for up to 15 days (for adults) and up to ten days (for young persons)

When the disciplinary action is solitary confinement, the defendant is placed alone in a cell. He is not permitted to smoke, to receive or to write letters (except for correspondence with his defense attorney), to receive parcels and to have visitors (with the exception of a visit by his defense attorney), to buy articles of personal use and to rest on the prison cot from the time he wakes up to the time he has to retire for the night.

5. The defendant has a right, within three days, to protest a disciplinary action; however, he is not permitted to protest against the type or the length of a disciplinary action.

6. In order to make certain that the goals of the detention will be attained, the members of the SNV of CSR (guards) are authorized to use exceptional punitive measures against defendants obstructing the purpose of custody or when a prior appeal or reproof had been of no avail; these include the chaining of a defendant, handcuffs, an elbow-lock, strangle-hold, straight jacket, aerosol tear gas spray, the use of truncheon, striking by hand, the use of a police dog, striking with a weapon.

7. The defendant shall be entitled to rations served three times a day in quantities and calorie value corresponding to the principles of adequate nutrition.

8. While in custody the defendant shall wear prison clothing and underwear. The prison warden may allow the defendant to wear his own clothes, underwear and shoes only on condition that the defendant has the facilities for a regular exchange of underwear and that his clothing meets the standard of hygiene and good taste.

Underwear allocated to the defendants shall be exchanged once every ten days, bedding at least once a month.

9. Defendants shall take a bath once every ten days.

10. Where a defendant is not in possession of basic toiletries and is unable to obtain them with his own funds, the prison administration shall provide him with soap, a comb and a toothbrush.

11. The defendant shall be entitled to eight hours sleep.

12. The defendant shall be entitled to medical services.

13. The defendant shall be authorized to write and receive letters generally once a fortnight unless the body competent for the criminal proceedings shall determine otherwise. This restriction shall not apply to the defendant's correspondence with the authorities mentioned under point 20, with his defense counsel and lawyer. All correspondence addressed to the defendant or written by him shall be passed by the prison administration to the relevant body conducting criminal proceedings for possible measures. Written material which a defendant unable or incapable of reading and writing receives from bodies or organizations, shall be read to him and he shall be given assistance in drawing up and writing applications, complaints or important reports as well as his correspondence with members of his family and defense counsel.

14. A defendant shall be authorized to receive visits only with the consent of the competent body conducting the criminal proceedings. The authorizing official shall be present during visits.

15. The defendant shall be permitted to talk with his defense counsel without the presence of a third person. The body competent for his criminal proceedings shall make provisions for such conversation. If, however, the defendant has been remanded in custody for fear that he will obstruct investigations (Article 67, b. of the Code of Criminal Procedure) and has not yet been informed of the result of these investigations, consent for a conversation without the presence of a third person must be obtained from the investigator.

16. The defendant shall be entitled to receive parcels containing authorized foodstuffs and other personal effects once a month (this does not apply to a change of underwear). The maximum weight of these parcels shall be 3 kg. The contents of parcels shall be subject to inspection. Objects barred from the cells shall not be handed to the defendant. The defendant shall be permitted to receive medicaments in parcels only in specially justified cases.

17. The defendant shall be allowed to purchase non-perishable foodstuffs, fruit, tobacco, letter-writing materials and personal effects in reasonable quantities once a fortnight.

If the defendant has a sum of money in safekeeping with the prison administration which is lower than the estimated fare to his place of residence he shall not be permitted to purchase effects.

18. The defendant shall be allowed to buy national daily newspapers and magazines, and borrow books from the prison library including legal regulations. The defendant shall be allowed to borrow and use games available in the prison.

19. The defendant shall be permitted to keep in his cell writing material, newspapers, magazines, books, legal regulations, photographs of members of his family and other personal effects sent to him in parcels, purchased by him or in his possession on admission to the prison provided the quantity and nature of these objects do not violate cell regulations.

20. In order to apply and ensure his civic rights and justified interests the defendant shall be permitted to submit complaints, applications, reports or suggestions:

a) to the Federal Assembly, the Office of the President of the Republic, the Czech National Council, the Slovak National Council, the Government of the Czechoslovak Socialist Republic, the Government of the Czech Socialist Republic, the Government of the Slovak Socialist Republic as well as the procurator or the court,

b) to the competent or superior authorities.

The defendant shall not be allowed to lodge a complaint on one and the same subject to several bodies simultaneously. At the defendant's request he shall be granted an interview with the Prison Governor, the procurator supervising custody, the authority conducting the criminal proceedings or an official who at a given time is on an inspection tour of the prison.

21. The defendant shall be authorized to secure legal aid from a lawyer, even in matters not concerned with the criminal offense for which he is in custody. Visits by a lawyer shall be subject to the relevant provisions under point 15.

22. While in custody the defendant may be permitted to work at his own request with the consent of the competent authority responsible for the criminal proceedings, provided work opportunities available in the prison correspond to the defendant's state of health, abilities and skills. If work opportunities are available outside the prison the defendant may be allowed to work for an organization on the basis of a contract between the prison administration and that organization. The job allocation, remuneration, health insurance and social security of such a defendant shall be governed by the same provisions as those applicable to prisoners serving a sentence.

II. Daily routine

23. a)

reveille	6 a.m.
tidying cells and personal hygiene	between 6-7 a.m.
breakfast	7 a.m.
lunch	12 p.m.
supper	6 p.m.
rest on the bed	7 p.m.
lights-out	9 p.m.

b) If the defendant is unable to adhere to the daily routine (for example, owing to his appearance at court proceedings) his rations shall be made up to him and he may even by allowed extra time to make up for lost rest.

III. - Certain privileges granted to defendants

24. a) Defendants shall take daily exercise.
b) Defendants shall take a bath in accordance with point 9.
c) Defendants shall make their purchases in accordance with point 17.
d) Defendants may borrow books once a week.
e) Defendants shall be lent games on request.
f) Preventive out-patients' medical care shall be provided twice a week, in acute cases daily.

IV. These regulations shall come into force on 1st January 1971.

Soviet Occupation of Czechoslovakia

Document No. 18

In the next few days, it will be 10 years since the military intervention by five member states of the Warsaw Pact on the soil of our country, which happened without the knowledge and consent of the highest organs of the Czechoslovak state - the President of the Republic, the government and the National Assembly (and without the knowledge and consent of the then leadership of the Czechoslovak Communist Party - its First Secretary, its Presidium and the Central Committee). This incursion of the armies on our territory was unlawful and in violation of the Charter of the United Nations, as well as the Warsaw Agreement, the Agreement on Friendship, the Agreement on Cooperation and Friendship and Friendly Assistance between the USSR and the CSR, dated December 12, 1943, as well as the agreement concerning the definition of an aggressor and an act of aggression, dated July 4, 1933, signed by both countries and still valid today.

The illegality of this act was also confirmed by the Final Act of the Conference on Cooperation and Security in Europe, signed in Helsinki on August 1, 1975, which in Principle VI on peaceful coexistence specifically states that the participating States will refrain from any intervention, direct or indirect, individual or collective, in the internal affairs of any state, which includes any form of armed intervention against any participating state.

The stationing of armies of the USSR on the soil of our country was subsequently adjusted by an agreement between the governments of the CSSR and the USSR, dated October 16, 1968. However, this agreement did not legalize the incursion of the armies on Czechoslovak soil. According to this agreement the Soviet armies are stationed in Czechoslovakia only temporarily, specifically, to secure the security of the countries of the socialist system in the face of the growing revanchist efforts of the West German militarist forces. (Article 1 of the Agreement)

We, therefore, ask - basing our question on the text of the Agreement - whether the reason for the presence of these troops in our country is still valid, especially in view of the fact that relations between the countries of the Warsaw Pact and the West German Republic have been normalized by an Agreement between the USSR and the West German Republic, renouncing the use of force in bilateral relations (1970). A similar Agreement between the Polish Peoples Republic and the West German Republic (1970), and an Agreement concerning the relations between the two German States (1972) are also in force, as well as an Agreement on bilateral relations between the USSR and the West German Republic (1973). There is also the Four Power Agreement on Berlin, signed also by the USSR and, specifically, the participation of all countries of the Warsaw Pact and the West German Republic at the

Conference on Security and Cooperation in Europe. This fact was also underlined by the visit of the President of the CSSR to the West German Republic and the visit of the Chairman of the Presidium of the USSR to the West German Republic both of which confirmed the peaceful character of that country, without once mentioning any danger which would justify the presence of the armies of the USSR in our country. These facts should be the basis for normalization of relations between the CSSR and the USSR: the presence of the armies of one country on the territory of another country in peacetime, certainly cannot be viewed as a normal occurrence.

The military intervention of August 1968 has gravely complicated domestic developments and the consequences of these complications are with us even today.

Dr. Ladislav Hejdanek
Charter 77 spokesman

Marta Kubisova
Charter 77 spokeswoman

Dr. Jaroslav Sabata
Charter 77 spokesman

Prague and Brno, August 12, 1978

Harassment of Charter 77 Signatories

Document No. 12*

The Prime Minister of the Czechoslovak Federal Government, Dr. Lubomir Strougal, as well as other government officials, stated that the authorities are proceeding against Charter 77 with political means.

However, such statements conflict with what is being done in practice: many state organs and institutions act against Charter 77 signatories, their families and friends with everything in their power -- firing from a job, persecution of children as well as through courts. They base their actions on the decisions of the Prosecutor General: 1) dated January 6, 1977, which refers directly to the Charter 77 Manifesto, stating that the Prosecutor General is initiating prosecution of an unknown perpetrator of the criminal offense of subverting the Republic and 2) dated February 28, 1977, which evaluates Charter 77 as an antisocial and anti-socialist document.

Charter 77 spokesmen, Jiri Hajec and Jan Patocka, rejected these decisions as acts which contradict the actual state of affairs and are in violation of law and remarked that such decisions will have only negative effects on our lives. This has now been confirmed to the full extent.

Since then the argument about the antisocial character of Charter 77 is affecting various actions and is being felt in many judicial proceedings and discriminatory actions. It has gotten worse during the last few months.

At the beginning of summer a 72-year-old professor of philosophy, Vladimir Kina, was sentenced in Prague to 6 months of unconditional loss of freedom for "inciting," which he is supposed to have committed by commenting on the state of affairs at home and abroad and by expressing disagreement with the situation as it has developed since those August days. The court was trying to prove Vladimir Kina's hostility by stating that he "went over to the right-wing opposition" (he was expelled from the Communist Party in 1970) and that he allied himself with enemies of the socialist system, who are associated with the so-called Charter 77."

At the the end of the summer a 49-year-old protestant priest, who is in the forefront of the Czech protestant movement, was sentenced to 8 months of loss of freedom unconditionally for "inciting." During the visit of Leonid Brezhnev, Jan Simsa, together with some other Charter 77 signatories, was arrested and detained on suspicion of inciting. The next day he was taken by the police to his apartment where the StB was going to conduct a search, even though Simsa was ill (he suffers from a chronic disease and has only one kidney). This was the second search of the apartment --

based on the decision of the Prosecutor General with regard to "prosecuting an unknown perpetrator of a crime of subversion," dated January 6, 1977. During the tense atmosphere at the apartment created by the search, an argument developed. The Simsas were keeping, as a treasured momento, a personal letter from Jan Patocka, one of the last letters Patocka wrote before his death. The police wanted to confiscate the letter even though they had no authority to do so. Jan Simsa protested. However, when the police tried to take the letter from Mrs. Simsa, she tried to protect it. Simsa pushed the police aside, away from his wife.

Since then, his fate has been sealed; he did not return from detention. A man of good will, who abhors injustice against his fellow citizens, became a pariah, a bully. The prosecution, which conducted its case against Simsa in this vein, demanded an unconditional punishment of loss of freedom for 18 months even though such a "crime" is normally punishable by a conditional sentence (such a severe punishment for Simsa could mean, in view of his impaired health, a sentence "for life"); to top it off, the prosecution suggested that Jan Simsa be especially guarded as a person with criminal tendencies. The court did not go that far, but the trial was conducted in a very discriminatory atmosphere. It was easy to predict a bad ending.

We will not go into a detailed account of the trial, nor into the proceedings of the appeal (which confirmed the original sentence) but we want to, first of all, point to the transparent tendency to throw, in one way or another, the worse light on those citizens who have the courage to protest the violations of rights of their fellow citizens, and to eliminate them, under whatever pretence, from society as second class citizens. If anything is making citizens especially mad, it is this tendency.

Young people, who are being given long sentences for alleged "inciting" (for example Ivan Manasek was sentenced to 18 months, Michal Kodal to 12 months; the trial of Petr Cibulka, Libor Loupek and Petr Pospichal was postponed, however all of them are being kept in detention) and whose "crime" lies in the fact that they are discontented with the official culture and public life and are trying to find their own values -- are deliberately being portrayed as antisocial individuals and narcomaniacs.

The same pattern is being followed which we know from the past. Ladislav Lis, who is known to thousands of Prague communists of the older generation as a long-time dedicated party functionary, was imprisoned for an alleged crime with regard to his property, which he did not commit. Otta Bednarova from Prague, is being persecuted, because she spoke up on behalf of her fellow prisoner, who, in turn, under pressure of threats from the prosecution, turned against Bednarova as a witness for the prosecution, accusing her of the criminal offense of attacking state and social organs, as well as putting her up to do the same thing.

A young Catholic priest, Frantisek Bublan in Breclav, was deprived of permission to perform duties as a priest for obstructing the implementation of official duties. He raised a black flag after the death of the Pope.

The case of Jan Simsa is especially upsetting. From some of the speeches at the trial, a person, not familiar with the life of Jan Simsa, would be led to believe that he was far removed from the life of Czechoslovak citizens, that Jan Simsa belonged to some kind of underworld of bad reputation, while, on the contrary, this man is one of those people who was the most courageous in his endeavor to bring some better values into the life of society. He has been thus engaged since his youth.

The democratic and progressive traditions of Simsa's family are exemplary. Jaroslav Simsa, Jan's father, was a progressive thinker of the pre-war Republic, who died after five years of imprisonment in concentration camps. The mother of Jan Simsa was a prominent resistance worker and, after the war, worked for several years for the Communist Party. This tradition has been documented in an original collection of correspondence from prison during the war, which was published under the title "Anxiety and Hope" (1969) by Milena and Jan Simsa. Jan Simsa has adopted some thinking of Dr. Martin Luther King. When, during the trial, he wanted to refer to this fact, Simsa was interrupted and warned. We feel it our duty to say for Jan Simsa, since he cannot say it himself, that the name of Martin Luther King became a symbol of the fight for human rights and against racism not only in the United States but elsewhere.

We could raise the question: was this Republic born from different experiences? And was it not said that "states live and continue their existence on the strength of those ideas, from which they were born?"

The government of this state may feel offended when we talk about persecution and oppression in connection with problems, for which it is responsible. But as long as they act under rules and provisions which justify and encourage "solving" of arguments and disputes concerning political ideas by forcibly dealing with defenders of human and civic rights, by treating them as enemies of society, by humiliating them and portraying them as outcasts, it will be despotism which will have the upper hand, and the law will be only a cover. And in such a situation, it will be the real criminals who will be taking "justice" into their hands -- as was confirmed recently by the treacherous attack on Jiri Kasal, Charter 77 signatory from Liberec.

The decisions of the Prosecutor General of the CSSR, pertaining to Charter 77, do not protect society -- they in fact harm it. This deliberate and widespread manipulation of these decisions does not aid in strengthening the law, it, on the contrary, creates a feeling of legal uncertainty (in the sentence meted out in the case of Jan Simsa, the prosecution of an "unknown" perpetrator, became the prosecution of Jan Simsa). If the public life in our country is to be made healthier, these decisions have to be repealed as unconstitutional. They are irreconcilable with a healtny public life.

We are going to strive for that goal with others, who are interested in strengthening the legal system -- together with fellow citizens and responsible officials who do not close their eyes to the real dangers and who are not deaf when they are told of real complaints of citizens; we are going to stay in this struggle as long as it takes to have these decisions annulled as discriminatory and illegal.

Dr. Ladislav Hejdanek
Dr. Jaroslav Sabata
Charter 77 Spokesmen

Marta Kubisova
Charter 77 Spokeswoman

Prague and Brno, September 30, 1978

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Remark: The text of this document was worked out by the three spokesmen on September 30, 1978. Dr. Jaroslav Sabata promised to add some additional information from the last two trials, however, the spokesmen, living in Prague, had to do so themselves because Dr. Sabata in the meantime was illegally detained.

Dr. Ladislav Hejdanek
Charter 77 Spokesman

Marta Kubisova
Charter 77 Spokeswoman

Prague, October 8, 1978

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* The cases listed in this document were current examples in 1978. An updated version of extensive harassment, especially related to the October 1979 show trials can be found in CSCE Commission publication "Findings and Recommendations Five Years After Helsinki," Appendix B , 1980. Also see Appendix to this document.

APPENDIX
Document No. 19

KIMA, Vladimir, prof.-received amnesty

KUBAL, Michal, released from prison February 1979, later from psychiatric hospital at the end of July 1979 to which he was illegally transferred. Detained 48 hours on May 28, 1981 for "hooliganism."

LALOUPEK, Libor, released from prison December 26, 1979 (served 20 months), harassed several times since then.

MANASEK, Ivan, released end of July 1979 (served 18 months in prison), harassed since then, also during trial of Havel and others; detained and interrogated during the preparatory meeting in Madrid (September 1980) when the Czechoslovak authorities detained over 80 people from 48 to 96 hours accusing them of "illegal activities" for preparing documentation for the Madrid Conference. Detained for 16 hours on May 28, 1981 for "hooliganism."

POSPICHAL, Petr, released probably in April 1979 (served 11 months in prison); harassed and detained while attending Prof. Julius Tomin's underground university in 1980; also during the crackdown on dissidents during the preparatory meeting in Madrid; severely beaten in September and October 1980.

SIMSA, Jan, released January 30, 1979 (served 8 months in prison); harassed since then. Interrogated and detained in March 1980 for being one of the 170 signatories to a letter requesting permission for a peaceful demonstration in support of Petr Cibulka. Was also detained for more than 48 hours in May 1981 during the recent arrests of over 30 Czechoslovak citizens. Detained in January 1980 with about 30 other citizens, no specific reason given.

Mission and Activities of Charter 77

Document No. 21

The new diverse citizens' initiatives which are being formed enliven the discussions regarding the mission and activity of Charter 77. Charter 77 views very positively not only all these initiatives and discussions, but also all the deliberations about the chances of the movement for human rights as such. It will, therefore, continue to support these activities.

Charter 77 is an association which is active, alive and open. It does not separate itself from society, it is not a closed society. From its inception the Charter has been based on the belief that the search for truth is a matter that is open to all citizens without exception and that it never can be a closed process. In this respect as in all other matters, it adheres to its original principles. It regards itself as a free, informal and open association of persons of different beliefs and faiths - an association of persons, who either separately or collectively are working for the respect for human rights in our country and in the world. It is not - and it will not become - an opposition organization with its own program of political and social reforms and changes.

We will listen to anyone who will show willingness to open a constructive dialogue about the rights of citizens and who will also want to open such a dialogue with state and political authorities. We regret that the respective authorities keep on refusing such a dialogue. But we have to speak out when authorities try to prevent citizens from excercising their legal right to seek an understanding about questions which are extremely important for society and which bear more and more heavily on all of us. As citizens we have a particular duty to protest openly, when the authorities use unlawful means of repression against those who come forward with critical initiatives or suggestions.

Prudent government is not afraid of criticism - on the contrary, it actually welcomes constructive criticism. In a society which has been shocked by complicated and conflicting developments, public criticism may cause misunderstanding, open old conflicts and at first may seem to even deepen the conflicts. However, clashes and conflicts, which are caused by abrogating the rights of a citizen, cannot be solved by having that citizen accept his fate and withdraw from public life. Discrimination cannot be appeased, it can only be overcome by courage and bravery, which form the basis for a controlled lawfulness.

The courage of the citizenry is blunted by societal conflicts and conflicting situations. Therefore, we consider it our duty to stand up to everything that deepens the animosity of the past as well as to that which creates new animosities that divide, disrupt and paralyze the creative forces of the society.

Almost two years have elapsed from the day when we welcomed with joy the legal acts through which international agreements regarding human rights became a part of the Czechoslovak legal system. We wish to assure our fellow citizens and the government that we will welcome every further step on this path and that we are gratified by progress, even if it is only small or partial. We will support everything which makes the state of our society better and ennances the rights of citizens. However, we are just as determined to point out - matter-of-factly and in accordance with the laws of the land - everything which makes the state of the society worse, as well as who is violating citizens rights and how they are doing so.

In discussions concerning the mission and the work of Charter 77, a consensus was reached to change the present practice regarding the preparation of documents of Charter 77 concerning the problems of life in our society. Up to now, we have tried to formulate the problems of reaching the goals of individual human rights - civil, political, social, economic and cultural - in the form of more or less final conclusions. In the future, we will give preference to critical discussions and submit all conclusions to the widest possible scrutiny.

We will - as far as we will be able to - turn to experts and interested social groups, to the public and, of course, to the respective official organs. We will also try - with all available means - to publicize and distribute all views, even if contradictory and without regard to the attitude of their authors towards Charter 77. We are firmly convinced that the evolution of social criticism and of a critical spirit is the basis for a postive approach to the solving of problems, as well as for the search of a constructive way out of the dilemma.

Charter 77 did not come to life as an expression of a crystallized political standpoint in a narrow sense. It does not seek power. Its documents therefore cannot and will not express the standpoint of any group of signatories or its followers. Neither are they a platform for individual trends of opposition. We are not, however, giving up our right to touch upon all forms of common, philosophical and political aspects of concrete phenomenon. We will continue to develop intiatives regarding necessary legislative adjustments. We do not consider ourselves to be the arbitrators in ideological and political disagreements and we do not claim the right to have the final say in what is or is not the truth and justice; we are not elevating ourselves to be the conscience of the nation.

Charter 77 was born out of a deep need for legislative security, from a longing for enduring morality and from the desire to contribute to a state of affairs where all Czechoslovak citizens would be able to live and work as free citizens. This is the basis from which springs the Charter's criticism of the unlawful system of subjugation of all institutions and organizations in the

state to political directives of the governing party and to the decisions of powerful individuals. Charter 77 is a reminder that this system causes the suppression of a number of citizens' rights, that the representatives of this system are not accountable to anyone, and that decisions of powerful individuals have priority even before law. Dissatisfaction with this system and its consequences has been expressed by many citizens who do not realize its causes and who, fearing for the safety of their families, do not want to speak out.

Citizens' criticism has taken many forms. Some are critical of the state of affairs in principle as is Charter 77. Such criticism has been made at great risk - despite possible reservations with Charter procedure. The differences do not touch only upon a difference in view of how the system came about, how it expresses itself, how active it is and how it should be changed, but also regarding what extent it is useful to deal with these questions. If these differences had the chance to be expressed freely and fully, this would give rise to new spiritual and material values. This state of affairs cannot be reached in a day. However, this realization cannot be an obstacle for those who have a will to help society; there is a vast area of needs which can be addressed and through which it will be possible to strive for a better quality of life - a rise in the standard of all social life.

Charter 77 spokesmen are contacted by individuals and groups of citizens with different suggestions and considerations who find no recourse in official institutions. All aspects of social life are discussed: questions of democracy and self-government; problems of organizational activities; problems of religious life; the work of justice, security and the law; legal protection of citizens and union rights; problems of emigration and political exile; problems of the economy, foreign trade, planning, programming, prices, consumer needs, travelling; residence and architecture; health and the safety of the operations of atomic plants; questions of the environment; questions of schooling and school reforms, of science and technical development. Of special interest are questions of Czech-Slovak relations and questions of minorities as well as problems of women and youth.

This vast range of interests has not been exhausted; it is being enlarged by other themes. However, we do not intend to make a list of them. We are devoting our attention to practical priorities and to practical development of these initiatives and discussions. We believe that we have the support of all those who agree and sympathize with Charter 77. We welcome everyone who wants to work in this regard and who wants - together with others - to undertake the research of some important social problem and to submit suggestions on how to solve it.

We would like for all the signatories of Charter 77 and its followers to get acquainted with this document and then to channel their efforts in accordance with this document to enable us to more effectively assist in the implementation of human rights laws which would cover all citizens. Charter 77 at the same time considers as its duty the support and encouragement of activities of all citizens in a way which would help these activities to become more independent and more mature, which would take more independent paths and which would have many participants, particularly among those citizens whose lives are being affected. The Charter would also like to have these activities developed on a broader democratic basis.

Dr. Ladislav Hejdanek
Charter 77 spokesman

Marta Kubisova
Charter 77 spokeswoman

Dr. Jaroslav Sabata
Charter 77 spokesman

October 19, 1978

This text was issued after Dr. Jaroslav Sabata had been apprehended; he asked the [illegible] other spokesmen to finalize the text.

Nuclear Energy in Czechoslovakia

Document No. 22

In the spirit of Charter 77 Document No. 21, we are now starting a new practice of issuing documents. As of now, Charter spokesmen shall issue documents primarily as subjects for discussion, which should support open reflections on given issues! It means that the documents will not represent any definitive standpoints of the Charter 77 on these issues. The documents do not have to mirror the view of all or the majority of Charter signatories, nor do they have to reflect the view of the spokesmen. Through them the spokesmen will only express their view that the documents, whether elaborated by small groups of Charter 77 signatories or by persons collaborating with them, might be a serious starting point for discussion. The first document of this type concerns the problem of the safe operation of nuclear power plants in CSSR. We hold that the theme is unusually lively and important, as documented by the interest this subject increasingly generates in many countries. The theme has not been discussed sufficiently at all in Czechoslovakia, especially the ecological problems. Additionally, Charter 77 wants to raise these issues in the future and support the endeavors of those who are dedicated to these issues through their lasting and uncensured attention.

Prague, November 27, 1978

Vaclav Havel
Dr. Ladislav Hejdanek
Spokesman for Charter 77

The utilization of nuclear energy represents -- in the view of experts -- one of the means of solving the problem of growing consumption of shrinking energy sources. However, in contrast to the classical usage of energy, the utilization of nuclear energy brings with it the risk of radioactive radiation. The problem of safely operating a nuclear power plant is, therefore, of central importance, not only for the protection of the health and lives of people, but also for the protection of the environment.

First Part -- Radioactivity and the Health of Human Beings

Radioactive radiation is caused during the disintegration of atomic kernels during nuclear reactions; the waste passes through live matter provoking a series of physical reactions which cause the disturbance or destruction of cellular molecules. A great amount of radioactive radiation can cause serious damage to an organism or even death because it will cause damage to a significant number of cells which the organism cannot reproduce. Smaller amounts of radiation can cause damage to the cellular structure, especially to that part which carries the genetic information of the cell. A cell, which is otherwise undamaged, may begin the production of other cells, which are different from the mother cell. The greatest danger for a person exposed to radiation is the emergence of cancerous cells, which spread uncontrollably into a cancerous growth, and then spread through the entire organism and cause paralysis of individual organs and death. Research has confirmed increased incidence of cancer and leukemia in persons exposed to great amounts of radiation caused by a nuclear explosion or by working in a nuclear power plant.

The consequences of radiation are not necessarily limited to persons who have been directly exposed to it. More treacherous are the consequences which these people may transmit to their offspring. The first form of such a danger is the deformation of the fetus, which may happen during the exposure to radiation of the mother. The developing embryo is unusually sensitive even to the smallest amount of radiation; the disturbance of only one cell may mean that the development of the organ will be deformed. According to some studies there have already been cases of deformed children in cities or areas with a higher exposure to radiation. Another form of danger to the offspring is genetic disturbance of the sexual cells of parents. It can manifest itself in various forms of hereditary defects or genetic changes. Mutation does not necessarily have to show up in the next generation; it may remain latent for several generations and then suddenly show up after many decades. These consequences may be caused not only by direct exposure to radiation, but also as a consequence of deposition of radioactive isotopes in an organism. Isotopes are not a stable matter and are subject to slow and longterm disintegration. Some of them, however, settle in the organism permanently and subject their immediate environment to high and longterm radiation.

The radioisotope of iodine, which settles in the thyroid gland, has similar qualities, as have radioisotopes of strontium which settle in the bones. All this matter is also the product of reactions used in nuclear energy, from which they spread into the environment, sometimes also into the water and the soil.

In reflecting on the safety of nuclear power plant operations, it should be noted that even the minimum amount of radiation can result in some of the given after effects. Attention is especially being drawn to the danger of genetic damage, which cannot be effectively evaluated at present due to the lack of long-term evaluation.

Second Part -- Movement Against Nuclear Energy

The aforementioned facts and other issues related to the development of nuclear energy led to the formation of anti-nuclear movements in many European countries opposing the construction of nuclear power plants. The opponents of nuc ear energy argue that its proponents intentionally exaggerate the seriousness of the energy crisis; the world fossile fuel deposits will actually last for a long time. They criticize the policy of oil companies that artificially creates a crude oil shortage in order to justify an increase in price, as well as the economic policy oriented toward increasing energy consumption. Often anti-nuclear forces claim that the political and economic system is the cause of these social ills, or that it at least provides for disproportionate emphasis on the development of nuclear energy. Opponents of nuclear energy development recommend an alternative in the form of more economical utilization of classical resources and improved international coordination of their production as well as development of alternate energy resources such as solar. They demand that construction of nuclear power plants be discontinued or at least postponed until the safety of their operation can be better safeguarded. The anti-nuclear energy movement has been gaining strength including in the international arena.

The authors of this article, specialists in these problems, do not want to pass any judgements on this movement. As specialists we state with satisfaction that the increasing public interest and awareness of this issue has resulted in increased safeguards in the manufacture of nuclear power equipment in many countries and in increased safeguards required for nuclear power plant operation.

Third Part -- Radioactive Leaks and Nuclear Power Plant Waste

Safe operation of nuclear power plants from the point of view of radiation impact on the populace rests on the decrease of the amount of radioactive materials leaking into the environment. The radioactive materials from nuclear power plants can leak into the environment substantially in three ways: by leaking into water and soil, etc.; in the form of radioactive waste from burnt-out fuel elements; and through leaks during an accident.

1. By normal operation we mean operations permitted according to operational guidelines at which the expected parameters will match or approach the highest allowed values. Under these conditions the leaking of radioactive matter is very low; the nuclear power plant causes lesser contamination of the living environment -- including radioactive waste -- than a classical power plant using brown coal.

2. Radioactive waste is thickened residue of deactivated solutions used for deactivation in nuclear plants together with loosened parts of construction or other materials such as instruments, clothing, etc. Some materials in the waste retain their radioactivity for a very long time, in the range of 100,000 years. There are no places in the world where they could be kept without the danger that on some occasion they might disseminate into the environment. Another problem is the issue of suitable containers since the materials used have substantially lower durability in a radioactive environment. Most often the radioactive waste is placed in abandoned salt mines. Its disposal there and at the sea bottom have met with fierce criticism. Other methods of disposal also exist such as submersion into polar ice.

Burnt-out fuel elements can be reprocessed and reused. The world reprocessing capacity is insufficient, however, and the elements are therefore temporarily stored... The fuel elements (fresh as well as burnt-out) are subject to registration by the International Atomic Energy Agency in Vienna. (The elements of reactors belonging to the military are not subject, however, to this registration).

3. In every operation, including a nuclear one, accidents occur from time to time, due to various causes. While the forms of leakage presented under items 1 and 2 remain more or less under human control, the accident potential of nuclear power plants are the highest source of danger for the population as well as for the environment. The quality of preventive measures against these accidents and the level of means for doing away with their effects are therefore the decisive factors governing the safety of nuclear power plant operation.

These measures commence with a choice of the process used, suitable construction and proper materials. This includes the quality of assembly, establishing operational conditions and safety limits as well as safeguarding of the organizational and personnel aspects of the operations. The measures that are to limit the aftermath of possible accidents lie in various forms of isolation of critical components and surroundings. In their simplest form they are variously designed covers of equipment which make siphoning away the leaking waste a possibility. The capacity of this equipment is limited, mostly because the equipment works effectively only to a certain degree. It does not protect against the largest possible accidents, such as breakage of the primary piping. The best possible protection against

radioactive leakage is considered to be the so-called containment equipment. In substance it is an airtight metal cover. There may be several such metal covers, referred to as multilateral containment equipment. Not only does it reduce the radioactive leakage into the atmosphere, but due to various processes it also decreases the levels of radioactivity. The equipment naturally increases the costs of power plant construction - by as much as 30 percent, according to some estimates. In all advanced countries, however, the issue is resolved unequivocally due to the benefit derived from containment; for instance, in the FRG, any future nuclear power plants have to be equipped with at least two-stage containment equipment.

Fourth Part -- Nuclear Energy in Czechoslovakia

There are certain specific problems related to the construction of nuclear power plants in Czechoslovakia. The first one is the difficulty in finding a suitable place in view of the high density of population. It is required that the distance from the nearest populated settlement be at least 3 kilometers. The construction of nuclear power plants and the conditions of their operation, especially the safety operation, are not administered by any law, (though the so-called atomic law has not yet been passed) and the conditions for construction and operation are set by directives that proceed from materials of the International Atomic Energy Agency. Another specific feature is the dependence of Czechoslovak nuclear energy on a monopoly of imports from the USSR. This is manifested not only in a narrower choice of equipment, but also in the problem of safe operation since that which might be found sufficient in the USSR (in view of the population density), does not apply for Czechoslovak conditions. For instance, the issue of containment has been explained until recently in this country by allegations that it is only the means by which the capitalist firms artificially increase their profits. The standpoint changed only after several accidents. Another specific feature is the refusal to disclose all information from the specialized public. Information is often incomplete because the project is subject to change until the last moment. This status prevents elaboration of good safety reports that would analyze the safety precautions both during normal operation and during certain types of accidents. The situation in nuclear energy was also unfavorably influenced by cadre policy which resulted in the departure of many foremost specialists in the years 1969-1970.

Four nuclear reactors presently exist in Czechoslovakia. A small testing reactor SKO is being installed in Pilsen; it has a small output capacity. At Rez, near Prague, two reactors are at work: TRD (very small output) and VVR (research reactor of low output). The fourth is the nuclear power plant A1 at Jaslovske Bohunice, western Slovakia, built near a spa area in Piestany. In view of the fact that it is the only real nuclear power plant in CSSR, we shall describe it in more detail.

Fifth Part -- Nuclear Power Plant A1 at Jaslovske Bohunice

It is equipped with a heavy-water reactor, cooled by carbon dioxide. The project started about 20 years ago. Originally, the concept was to provide operation of 50 MW output, but later -- in view of the tense energy situation -- the planned output was increased to 150 MW. The power plant was put into operation in December of 1972, but after 3 years and 2 months the operation was discontinued -- in February of 1977. Moreover, during most of this short time of its existence, the plant did not work due to numerous accidents. The output was maximally 100 MW. A1 is not equipped with containment equipment. Safety is safeguarded by covers on critical parts of the primary circle from which the leaking radioactive materials might be syphoned off into 4 accident-prevention gas holders -- from which the substance, after lessening in radioactivity, is to be released through filters into a chimney. The problems with the radioactive waste were not satisfactorily solved. All the waste was stored in guarded places in the power plant and is still there. Of late they have been thinking about adding the residue to the construction materials for construction of those parts that remain underground. According to the customary international conventions the manufacturer should deliver his fuel elements for reprocessing. A similar agreement exists between the Soviet manufacturer and the Czechoslovak side as end-users. Since the start of operations, not a single fuel element has been taken away. The burnt-out fuel elements are being stored in the swimming pool which at the time of the discontinuation of operation of A1, in February of 1977, was half full. It was assumed that another swimming pool would have to be built if the first pool became filled and if the Soviet would not take away the elements.

The decision to construct A1 resulted from the desire of Czechoslovak energy leaders to realize a modern, independent conception of nuclear power plants in Czechoslovakia based on domestic fuel. The decision was based on the technically advanced production base of our heavy engineering (especially at SKODA Pilsen, ZVS Dubnica, CKD Praha, etc.), on the present trends of world development, and it also counted on broad international participation. The best Czechoslovak atomic specialists worked on A1's preparation. At the time of its design, preparation for A1 was comparable with similar projects abroad, including in operation safety. During the construction and especially during operation, the situation rapidly changed. During the construction serious organizational shortcomings appeared. The complete documentation necessary for construction did not exist, which meant that required elementary rules of construction were ignored. For instance, a series of changes connected with construction work (tearing down, etc.) were carried out by improvisation without proper regard for the cleanliness of individual systems, the premises, etc. The equipment for automatically charging fuel elements was never put into operation... Also the safety equipment was restored erratically during operation, usually only after some accident and only that part which was affected by the accident.

In the area of labor organization and inter-personnel relationships, the situation was also unsatisfactory. Safe operation depends not only on the specialized but also the psychic and moral values of the employees, and on their cooperation. These factors were ignored. Nuclear power plants offered high salaries but poor working conditions. This was also reflected in the assortment of employees: good workers were leaving shortly after coming and those who stayed were only looking for good wages. Alcoholism spread and thefts occurred, even of activated materials.

The key feature for efficient and safe operation lies in the labor factor. The activities of the crew were assessed as psychologically the most demanding of all. Neither the criteria of selection nor the working conditions were in accord with that assessment, however. The applicants for the post of a reactor's operator were never screened psychologically. Working hours for similar jobs in the Western advanced countries are shortened to six or fewer hours, while at A1 16-hour shifts were tolerated. In addition, the operators at A1 were exposed to another psychological burden stemming from emphasis on operational rather than safety requirements. For instance, operational parameters above the permissible values were tolerated -- if, of course, no accident occurred in the process. In the case of an accident, the operational and radiation guidelines naturally constituted a starting point for investigation. On the other hand, decreased output or pulling down of the accident bars unnecessarily (that means stopping the reactor) was sanctioned generally as well as financially. A similar attitude was taken with respect to the radiation guidelines as well. In theory Czechsolovak radiation rules are among the strictest in the world, in practice, however, they are the least adhered to.

Another important factor was pressure exerted on employees to work in the radiation zone. As a consequence of various difficulties, there is a need to carry out certain operations in radioactive surroundings. The operations are divided among more people in order to avoid excessive exposure of any one person above the permissible dosage for a given time. At A1, as a consequence of numerous mishaps, situations occurred when all the employees, whose job description included work in radiation zones, had exhausted their safety limit. In such cases, other employees were forced to do this work by means of fiat. Refusal would be punished by withholding bonuses.

During the operation of the power plant two major accidents occurred. The first one took place January 5, 1976 -- caused by a technical error. According to the official report, filler got into the loading mechanism and prevented safety emplacement of a new fuel element. The crew was under suspicion but nothing was proven. The element, under pressure of 6 MPa (60 at), shot out of the reactor, followed by leakage under the same pressure condition of radioactive coolant (carbon dioxide) into the area of the reactor. An evacuation order was issued. Two workers who, at the

time of the accident, were not at their place of work, ran toward an emergency exit but it was locked in order to prevent thefts. Before they managed to reach another emergency exit, they were suffocated by the escaping carbon dioxide. The radioactive gas was syphoned off into the accident gas tanks from where, after a short dying-off period, it was released through filters into the air. This accident can be considered comparable to the worst scenario possible. The probability of such an accident is given as almost non-existent (once in 10-20 years). During such an accident a direct leakage of gas from the primary circle occurs. Since the capacity of the accident gas tanks and filters was not sufficient, the radioactive gas was partially emitted into the air. The data concerning the amount of radioactive leakage is being kept secret, even from the employees involved who received only unreliable information stating that no permissible values had been exceeded. The employees were not even provided with the dosage level they themselves had been exposed to.

The second serious accident took place February 24, 1977 through the careless assembly of fuel elements and an error in its loading. Overheating occurred to the primary circle. This led to heat damage of the fuel element and penetration of the caisson piping. As a consequence, carbon dioxide and deuterium leaked and resulted in the contamination of the entire primary circle. The overheating loosened the tightness of the steam generator and even a part of the secondary circle was contaminated. The leaking radioactive tritium was brought through the air conditioning system into the operation rooms. After the reactor was shut down, a portion of the activated steam from the secondary circle was released by negligence into the sewage system and contaminated a creek in the neighboring village of Zikovce (the creek was later fenced off for some time).

Power plant A1 has since been out of operation due to serious damage to the reactor. The question "what next?" has not yet been solved. The operation was quite uneconomical and unreliable. Repairs would require excessive expenditures and it would be necessary to carry out relatively extensive assembly work directly in the active zone of the reactor. The easiest solution would be to disassemble the power plant but there would be a problem in explaining this since no accident has yet been officially admitted and information about it is being kept secret. (For instance, a brief television report from A1 was made at a time just after one accident when the plant was at a standstill. The television crew imitated lighting with the use of hand lamps behind the rear wall of the manning panel). We emphasize that the contractual duty of the members of the International Atomic Energy Commission is to provide genuine data about the character and extent of such accidents.

Sixth Part -- Construction of Further Nuclear Power Plants

Presently, in Czechoslovakia, the following modern nuclear power plants with light-water reactors are in various stages of construction or under project preparation:

Jaslovske Bohunice: VVER 1 (1 reactor before completion, second in construction);

VVER 2 (site in preparation) -- 4 reactors in total, overall output 4 x 400 MW.

Dukovany at Southern Moravia: VVER 3 and VVER 4, again total output of 4 x 440 MW; ground work is being carried out.

Project of 1000 MW reactor VVER in Southern Bohemia in the state of project preparation.

Seventh Part -- Conclusion

On the basis of the experience of the operation of A1, which cannot be called anything but frightening, we submit several requirements and proposals about which the Czechoslovak and world public should be informed -- especially the public of neighboring countries. Our proposals should be assessed by specialists, both in Czechoslovakia and within the framework of the International Atomic Energy Agency. The responsible state and economic organs and institutions should then decide what to do with our requirements and proposals -- in harmony with national and international laws.

We proceed from the fact that "man is entitled to basic rights to freedom, equality and acceptable living conditions that provide for a dignified and wholesome life" and that man has "a serious responsibility to protect and improve the living standard for present and future generations" (quotes are from the first principle of the Declaration of Principles of the UN Conference on Living Environment, Stockholm, June 5-16, 1972). We emphasize this responsibility with urgency and refer in this respect to the following national and international laws:

-- Article 23 of the Czechoslovak Constitution (on health protection);
-- Article 15 of the Czechoslovak Constitution (on protection of nature and living environment);
-- Article 6, Section 1 of the International Pact on Civil and Political Rights (right to life);
-- Article 7b of the International Pact on Economic, Social and Cultural Rights (right to safe and wholesome work conditions);
-- Article 12, Section 2b of the same pact (right to health).

Further we refer to the Statement of Principles of the UN Conference on Living Environment held in Stockholm, June 5-16, 1972. The Statement, supported by the UN general assembly at its 27th session, develops the fundamental idea of responsibility of states for the protection of the living environment. In addition to the above-quoted first principle, the following apply as well:

-- the sixth principle (on the inadmissibility of contaminating the living environment by gaseous or similar matter and on support for the just struggles of nations of all countries against the contamination of the living environment);
-- 18th principle (on subordination of economic development and development of science and technology to ecological viewpoints);
-- the 19th principle (on education in schools as well as in the public news media toward protecting the living environment);
-- the 20th principle (on the free flow of scientific information and on sharing experiences in the ecological field on an international scale).

In view of the above-quoted legal and contractual regulations as well as of generally recognized principles we are justified in proposing that in public discussion, supported by state organs and social organizations and safeguarded by the news media, specialists from various fields should state their views on the necessity of developing nuclear energy and the risks involved. We consider it urgent that the populace in the vicinity of nuclear power plants be informed about the character of operations and aspects of safety, and that information concerning the accidents to date, their causes and aftermath, be immediately released. Only on the basis of public opinion -- or in the form of a national plebiscite -- is it possible to decide the basic issue, that is, whether to continue the development of nuclear energy in Czechoslovakia or whether to seek alternatives (the introduction of less energy intensive technologies, doing away with inefficient enterprises, utilization of other energy resources, including solar, etc.). We think that even if a decision is made to continue with nuclear energy development, society -- as long as public opinion functions -- will always return to this basic issue, or to the issue of an optimum degree of such development.

Under present conditions, when society is not informed about the risks of nuclear power plant operations, we consider the following necessary:

-- To inform the public about all aspects of the safe operation of nuclear power plants, including statistical data about the health status of employees and of the populace in the vicinity, and to incorporate the issue into the curriculum in all schools.

-- To safeguard materials and measures and make them available to the public to provide for independent oversight regarding safe operations (it is nonsensical to keep these materials secret for strategic reasons since the level of similar projects is higher in advanced countries).

-- To insist on using all the available effective safety measures and equipment during work projects and construction of new equipment including containment equipment, even if it is necessary to pay hard currency for these imports.

-- To pay maximum attention to the elaboration of good safety reports that would also include safety measures covering the erroneous actions of attendants and the prevention of any serious damage to the fuel elements as a consequence of boiling or melting which reportedly has occurred in similar plants in the GDR, USSR and Bulgaria.

-- To safeguard operations regarding organizational, personnel and working conditions in order to eliminate as far as possible, the breakdown of equipment and of the crew due to a lack of specialized knowledge, psychological incapabilities, exhaustion, mental health problems, use of alcohol or drugs (as a consequence of the intense social or working atmosphere) or due to excessive or contradictory demands. We include in this the elimination of political discrimination in all work positions in nuclear power plants and the introduction of strict psychological criteria, establishing, for instance, the position of a psychologist or sociologist with extensive jurisdiction in every plant, in order to promote positive social conditions among employees. We also support the strict application of the principle which affords the person in authority (such as the operator of a reactor) the right, in case of uncertainty, to choose the proper safety measure as he sees fit, though it might not seem necessary from an objective standpoint.

In the interest of consistent observation of operational guidelines and ensured respect for safety rules and radiation regulations, to introduce and apply a principle that, in case some of these regulations are too strict, no one has the authority to exceed them until a new adjustment of the rule and/or limit has taken place.

The report was prepared during 1978 by Czechoslovak specialists in the area of nuclear power. In November of 1978, they handed over the report to Charter 77 spokesmen for publication.

Situation of the Gypsies in Czechoslovakia

Document No. 23

Stemming from the Czechoslovak Constitution and Czecho-slovak Laws, as well as the International Covenants on Human Rights and the Universal Declaration of Human Rights of the United Nations, Charter 77 has, since its inception, championed the principle that all people are entitled to reap the benefits of human rights and democratic freedoms without discrimination.

This also means that these rights and freedoms should benefit all people regardless of their nationality or ethnic origin and that belonging to a certain nationality or race cannot be a reason for limiting a person's rights or depriving him of his rights altogether and taking away his freedoms.

Charter 77 pointed out that as far as human rights are concerned, the Czechoslovak legal system has discrepancies and is inconsistent in the area of relevant legal and other rulings, which establish and describe citizens' rights, as well as in the area of legal guarantees of these rights. Charter 77 also pointed out many times that the daily practice of state and social organs and institutions is to deny human rights, which the Czechoslovak government pledged to uphold and respect at international forums, as well as those citizens' rights, guaranteed by the Czechoslovak Constitution and Czechoslovak Laws. This double-standard -- the legal system and daily practice -- does not free us from our duty to express criticism of such violations of human rights which are not tied with political developments in the country, or with political discrimination in employment or with criminal persecution of persons for freely expressing their beliefs.

Such less political -- and thus less visible -- violations of human rights can be seen in discrimination against our fellow citizens of Gypsy origin. Charter 77 prepared a document on discrimination against Gypsies, regarding violations of the legal system concerning their social standing. Publishing this document should generate a discussion about this question, as well as interest in their problem. We are aware of the fact that their social standing is influenced by a number of factors. We, therefore, want to assist in throwing some light on these factors and thus help in elevating their social standing.

We feel also, that the Gypsies themselves will try to work at getting their civil, political, social, cultural and economic rights. We have found that after the state organs abolished the Association of Gypsies, there has been no organization or institution in this country willing to take up the cause of the Gypsies. We feel that the establishment of such an organization is absolutely necessary.

We also wish to emphasize that we do not see that the problem of citizens of Romany descent will be solved by integrating them into our society (and by creating conditions for such integration). The question, whether they should get assimilated into society and accept its values and thereby lose, in the process, their own ethnic identity, is for them alone to decide. They alone can decide to what extent this integration should be accomplished, should they accept it. Every Gypsy is actually faced with such a decision every day. It is up to the state organs and the citizens to create conditions for this decision and to foster the atmosphere of mutual understanding.

This will also be fostered by deliberations and essays addressing this issue -- especially on how to solve this problem in Czechoslovakia. Charter 77 presents such a deliberation to the public and to the state organs as a basis for discussion.

Praha, December 13, 1978

Vaclav Havel
Dr. Ladislav Hejdanek
Charter 77 Spokesmen

* * *

The situation of Gypsies in Czechoslovakia is not a theme that holds the interest of other people and it is, therefore, prudent to say that most citizens do not know anything about this minority against which there is so much discrimination. This lack of information is a result of a well planned campaign to keep secret everything that has anything to do with this minority. However, the situation is too serious to let it go on unchecked and without protest.

The attitude of the public on this issue vacillates between indifference and racism. Expressions of racism and segregation are getting -- and will be getting -- more numerous. Gypsies, who are the least protected group of citizens in Czechoslovakia and have the fewest rights, do not figure in the minds of other citizens as being the victims of illegality; this seems to be a "privilege" of "decent" people. If the silence on this issue should continue, it will lead to a tragic paradox: Gypsies will in the minds of the population as well as in the minds of those who are indifferent to these issues and, paradoxically, in the minds of those who are striving for legality, blend with a picture of societal vices. What may happen in the end is that the repressive organs, which bear primary responsibility for what has happened to the Gypsies in Czechoslovakia and for the way they live today will actually protect the Gypsies before they help citizens who work against the same organs in the interest of legality and humanity. And the old Jewish role will see a repeat performance with a new cast -- a performance which has already begun.

The problems of minorities plagued the Republic from the very beginning, from the founding of Czechoslovakia as an independent state. This problem played a big role in the Munich crisis and in the catastrophe which followed. There was no serious attempt to analyze the pre-war minority situation and policy and there was no minority policy formulated after the war. There are, in Czechoslovakia today, quite a few minorities, nationalities and ethnics, whose problems are unknown to the great majority of Czechoslovak citizens. The problems of minorities in our country are the more serious, because Czechoslovakia has a high population density and there are no great open spaces in our country. These demographic-geographical peculiarities underline in a specific way traditional Czech nationalism and its relationship to minorities. Neglecting the problems of minorities and suppressing any information on these problems, is dangerous and irresponsible. The specific situation in Czechoslovakia demands, on the contrary, an enlightened and more tolerant policy, based on a rational will for co-existence, not a conservative, restrictive policy which shows a tendency towards repression and which leads to social and cultural elimination.

Gypsies are different from other minorities because they represent a developing culture in the midst of European cultures. They are the second most numerous minority in Czechoslovakia and according to some experts, they may be the most numerous. The traditional name "Gypsies" carries with it much vilification, stemming from centuries old prejudices and does not reflect the original name of this ethnic group. We have therefore chosen to call them ROMOVE, which is in harmony with their language and feelings as well as with a trend in the world today to denote ethnic and national groups in the way these groups prefer themselves.

There are approximately 300,000 Romy (Gypsies) in Czechoslovakia. According to official sources their number is smaller because their ethnic background was, during the census, either left out (it depended on the "good" will of the census takers) or because many of them preferred not to disclose their ethnic origin. As far as their percentage of the general population, the estimates range between 1.6% and 2.9%. Statistics put out by official sources tend to use the lower figure, which is detrimental to the well-being of the Romy (Gypsies) because underestimation of the total number leads to overestimation of other factors. Thus the statistics on Gypsy criminality and poverty, coming from official sources, tend to portray the Gypsies in an unfavorable light without taking into consideration their background and the society in which they live.

More than one fourth of the Gypsy population now live in the Czech lands where they moved during the war years from Slovakia. From the original, about 10,000 Gypsies who lived in Bohemia and Moravia, only a few hundred survived the Nazi occupation; the others died in concentration camps or in gas chambers. The birth rate among the Gypsies is three times greater than the rest of the population, while the death rate among Gypsy children is twice the national death rate. The overall health standard of the Gypsy population is very poor in comparison with the rest of the population.

In the past the reason for social isolation of the Gypsies was racial difference, extreme poverty and different life style. Today the main reason for solving the problem are so-called "Gypsy problems" -- in Czechoslovakia the problem now is the problem of majority rule. The "Gypsy problems" are getting worse at the same rate as the economy grows worse and are also due to the continuing bureaucratic system and the malfunction of public communications in the area of thought and information; the problems are also due to growing brutality and illegal repressive institutions. The so-called "Gypsy question" is a symptom of deeper, general problems of the whole society. It is also the result of political-administrative stereotyping, and constantly proclaimed ideological theses, which only cover-up the real problem.

There are inconsistencies between the actual and the legal status of the Gypsies. Our Constitution, and many laws including international Covenants, guarantee all citizens full equality not only for the individual, but also as a group -- which means the right to use the mother tongue, culture and the pursuit of development of specific interests.

However, the rights of Gypsies, as a minority, are denied in Czechoslovakia. By stressing the fact that Gypsies are "only an ethnic group" not a national minority and using this artificial distinction between "ethnic" and "national," the state powers hoped to lessen the minority problem and to subordinate it to the so-called interests of the whole society. However, the official interpretation of the "Gypsy question" stems in fact from Stalin's interpretation of nationality problems. For Gypsies there is the question -- whether to become Czechs or Slovaks and thereby risk the extinction of their identity. Legally the Gypsies do not exist. However, the authorities established various governmental, regional and district commissions, which register Gypsies in various categories according to absurd criteria; special schools were also established -- not to assist the Gypsy culture, but to suppress it. There are also rules and regulations which are to assist in solving the "Gypsy question." In official documents the Gypsies are recorded only as of "Gypsy descent" or as "less integrated population."

The so-called "solution of the Gypsy question" is limited to repressive measures, which often have the characteristics of nationwide campaigns, which are unknown to the general population. A first such nationwide action was registration of "nomads." It was a "raid" conducted on the basis of Public Law No. 74/1958 over all of Czechoslovak territory from February 3 to February 6, 1959. Para. 3 of Public Law 74/1958 states: "Persons, who persist in living a nomadic life, despite assistance provided for a permanent residence, will be punished for criminal offense by loss of freedom for 6 months to 3 years."

This Law, which violates the Constitution and the administrative measures which were used to give it some legal status, was also employed against some social groups from the "majority of population" -- such as against "worldly persons" (secular) who specialize in fairs, etc.

These measures were meant mostly against Gypsies, who were not nomads. Gypsies in Czechoslovakia are divided into three groups, two of which represent about 90 to 95% of the gypsy population in our territory. They have been established here for at least 200 years. The third group -- which represents from 5 to 10% of the Gypsy population, did live as nomads. Law No. 74/1958 was used directly only in a few cases; however, it was used in connection with the registration of nomads in 1959 and later as a basis for repression with racial overtones. This law is still valid today and is, therefore, a constant threat to Gypsies who do not lead a nomadic life and who live in conditions, which are not of their own doing that force them to migrate.

Regulations, under which the registration of "nomads" was conducted, were worked out in secrecy, months before the registration, and specified in detail how the registration should be conducted -- even the room where the registration was to be held.

The regulations stated that even those Gypsies who had a permanent residence and employment had to be registered so long as they allegedly sent their wife or companion to beg or to earn money by prostitution. The regulations, however, did not demand proof of such begging or prostitution. Many Gypsies, who had permanent residence and employment and did not live as nomads, were registered simply because they happened to travel somewhere on a train or were at a railway station between February 3 and 6, 1959. They were detained and their ID was marked "nomad." During the registeration they were "offered" an apartment and they were asked to start working at a designated place in accordance with para. 3 of Public Law No. 74/1958. If a Gypsy, detained in this raid, did not stay in the apartment that was "offered" and in the employment that was "provided" -- even for the just reason that he had a permanent residence elsewhere and that he was also employed elsewhere -- he was accused by the authorities of "fluctuation" meaning he was "masking his nomadic life."

If a Gypsy wished to terminate such employment, he was asked to provide -- even many years after this "registration" took place -- permission from the local national committee, which, however, was never provided. Or if such a member of the Gypsy family even wanted to move to stay with close relatives in a nearby district, he had to meet the following conditions: permission from two national committees -- one from the place from which he wanted to move and one from the place into which he wanted to move. Such permission was generally not given, even in cases where the move was motivated by illness or disability. The authorities, however, had the "right" to assign them a place to live, even without a court order.

Gypsies, who never lived as nomads, have, for many years after the so-called registration took place, been submitting applications asking the authorities to remove them from this "registration." These applications were reviewed and decided upon by several members of the local national committee and one member of the police. The view and/or decision presented by one member of police carried more weight than views presented by the other members of the commission. Some applications were denied, even though all the other members of the commission were of the opinion that the applicant should not have been "registered" because one member, representing the police, maintained that the "registration" in that particular case was "legal" or that the applicant is "known" to have visitors in his apartment who are of Gypsy origin and from another district.

Another method to be used to "solve the Gypsy question" was forced "dispersement" of Gypsy populations -- in other words, the "liquidation of undesirable concentrations of Gypsy population." This was supposed to have been carried out on the basis of a government ruling, No. 502/1965, which, as it turned out, could not be used for this purpose and was, therefore, abolished. However, the Gypsy population is feeling the effects of this ruling even today. At the time when this dispersing of the Gypsy population was to take place, about 14,000 families lived in Eastern Slovakia in about 1,618 settlements -- or rather ghettos half of which were without electric power, the majority of which had no sewer facilities, and most of which had no access roads and were far from the nearest shops. Drinking water was provided by about one hydrant for 500 or more persons while some settlements had only a small stream. Quite a few of the huts were made of clay. The living standard in some of these settlements has not changed much in all these years. The directives, which were to be followed in dispersing the Gypsy population, gave priority to areas which were tourist attractions and a settlement called Velka Ida was disbanded because it "threatened the health of workers of Vychodoslovenskych zelezaren" (steel mills of Eastern Slovakia).

The social and health threat of these "undesirable concentrations of the Gypsy population," never was the main reason for their dispersement -- in fact, it was not even a secondary factor in the reasoning of those who made these decisions. The directives stated further that citizens of "Gypsy settlements, streets, quarters, etc." have to be transferred to specifically designated places; Czechoslovak citizens of "Gypsy descent" living in a certain settlement had to be moved to a specifically designated district or region and nowhere else - only because of their racial origin.

Gypsies who were assigned to a certain district had to move into that district even if they had relatives or friends elsewhere or if they had employment opportunities elsewhere. Characteristically for such government rulings and regulations, the "liquidation of undesirable concentrations of Gypsy population," and the dispersing and movement of the Gypsy population was obligatory and at the same time "voluntary." This type of juridical alibi (or double-talk) is quite visible in all documents in the 1970's which deal with the "Gypsy problem" in the most hypocritical way possible. However, the majority of the population is unaware of all these machinations.

All these rules and regulations, limiting the right to free movement and employment, were violations of the Constitution.

Scarcity of apartments and organizational inability are to be blamed for the fact that within the framework of the forced dispersement and movement of the Gypsy population, only a fraction of the Gypsy families settled in the designated areas. The ruling concerning forced dispersement also called for the elimination of "unwanted migration of the Gypsy population." If dispersement meant a forced migration, then "unplanned migration in order to seek better employment, better housing or better social standing" was undesirable and therefore prosecuted. The government ruling, No. 502/1965, was abolished; however, the unwritten formula on "undesirable migration of Gypsy population" is still being used and is a threat to a great part of the Gypsy population. A Gypsy who moves from his settlement and finds accommodation and employment elsewhere cannot have his ID changed without specific permission from the national committee (such permission is not necessary with regard to other citizens of the Republic). He cannot enter a work contract, is not entitled to medical attention and cannot get assistance from funds administered by the respective District National Committee should he need to assist his family. As there is no direct contact between local national committees in the Czech lands and those in Slovakia, it is very complicated for any Gypsy to get any official business resolved. A Gypsy whose original home was in Slovakia and whose new home is in the Czech lands, has to travel back and forth to get any official business taken care of; sometimes these trips are futile. The local national committee in the place of his new residence does not

consider him to be a local citizen and refuses to deal with him; the local national committee of his permanent residence refuses to deal with him and does not recognize his claims "because he moved away."

"Preventing willful migration" leads to interference in private life. The most outstanding feature of a Gypsy community is its family unity. Gypsies are known to be traditionally hospitable, to visit one another often and to never refuse hospitality to one another. If some members of a family find better living conditions, they make it possible for other members to join them to share these better conditions. This trait in the Gypsy character has old roots; similar traits and customs can be found in a number of nations with a highly developed cultural tradition, who have lived for thousands of years on their own soil -- such as the Chinese. However, if a Gypsy, with a permanent residence elsewhere, is found to have stayed for several nights with a relative, he can be -- and very often is -- "removed" by the police on the pretext that he is engaged in "willful migration."

The dispersement also had some economic "justification." Records of meetings of officials who were responsible for carrying out government ruling No. 502 show that obligatory dispersement is also being justified with claims of lack of workers in the Czech lands and of too many workers, i.e. unemployment, in the eastern part of Slovakia. In the middle of the 1960's when the dispersing of the Gypsy population was to be launched the reasoning was that the employment situation would remain the same for several years. The truth is that it has not changed to this day. The need for unqualified workers is growing and the authorities even had to import some foreign workers. It is the large construction enterprises that recruit Gypsies in Slovakia for work in the Czech lands. The way they do it is not always ethical. They take advantage of the Gypsy's lack of information and education; the job contracts reflect this in many ways. Sometimes there are no contracts at all. Some of the Gypsy workers do not get good housing. Most of the time it lacks hygienic facilities forcing the workers to live with relatives or friends in overcrowded apartments. The recruiting officials do not take any family matters into consideration.

The dispersement of the Gypsy population was supposed to have also helped to solve the shortage of workers in another part of the state. The solution to this problem -- obligatory transfer of an "illegal" minority -- is hindered by organizational inability and lack of housing. On the other hand the lack of housing is one of the reasons why the "unrestrained migration" of Gypsies, from the longrange point of view, is not only good but even necessary. When they cannot find employment, the Gypsies move to the Czech and Moravian industrials center where they are useful -- especially in construction work -- as unqualified labor. They live mostly with their friends or relatives or they try to find apartments of the lowest category, which do not always have hygienic

facilities. The "unrestrained migration" does have some economical benefits for the state. However, the Gypsies are faced with a dilemma: on the one hand this "unrestrained migration" is being tolerated for reasons stated above, on the other hand it is being used as a reason for persecution which takes many forms -- such as personal searches, forced evictions from apartments, confiscation of property, etc.

The consequences of this official stand with regard to "unrestrained migration" are felt mostly in the area of housing. One of the directives read that: "...under no circumstances will a local national committee accept a Gypsy into its jurisdiction, unless it is able to provide him with accommodation..." This directive is still being applied, however, in the most negative way.

Government enterprises need Gypsy labor. However, the national committees refuse to assign them apartments. Their standard of living is the biggest obstacle to the cultural development of this minority and makes it impossible for them to rise above the level of unqualified labor for a long time to come. The great majority of Gypsy households in Czechoslovakia consist of one room, or of a kitchen and one room. The number of persons living in a Gypsy household is double or even triple that of the rest of the population. The apartments are usually overcrowded, dark and damp and lack the most basic hygienic facilities.

Until recently, the Education Department did not consider any programs directed at the Gypsy population, 30% of which does not know how to read or write, and can be classified as illiterate. Even in the age group between 15 and 29 years, about 17% fall in that category. Only 50% of the male Gypsy population, averaging 30 years of age, finished grade school; 15% has about 9 years of schooling and 10% did not attend school at all. Only about one half of one percent of the Gypsy population finished higher education and only about 30 persons of Gypsy descent attended college in the whole of Czechoslovakia.

Unsatisfactory performance of Gypsy children in Czech and Slovak schools is often "solved" by transferring the children to special schools for the mentally retarded. During the school year of 1970-71 in the Czech lands alone, about 20% of Gypsy children attended these special schools as against only 3% of children from the rest of the population. According to psychological tests the great majority of these children should not be in these schools. This indiscriminate transferring of Gypsy children to these special schools, which is the general practice, reflects unfavorably on the whole Gypsy population. A child who "graduates" from such a school has the same standing as a child who did not finish his basic schooling. Access to better employment opportunities is closed. Even art schools are closed to them, while persons with special musical talent -not uncommon among Gypsies - are shunned. Musical and dance groups are interested in these talented persons, however, they cannot employ them.

The main reason for the unsatisfactory performance of Gypsy children is the fact that there are no schools which teach Gypsy culture and try to develop it. The powers that be are, on the contrary, doing everything to suppress Gypsy culture and the media assists in this destruction by spreading lies, such as that Gypsy culture does not exist. Gypsy children are forced to attend schools where they are taught in the Czech or Slovak language and where, from the pictures in the primer, they get the impression that they are foreign, that they are second class citizens, without their own language, without a past and without a future.

During the last few years special classes for Gypsy children were arranged in places with larger Gypsy populations. In higher classes, Gypsy children from these special Gypsy classes are transferred to normal classes, where they attain better grades than Gypsy children who did not attend these special Gypsy classes. However, not even these special Gypsy classes have addressed the language problem and the whole burden of this experiment, which has been conducted with a minimum of expense, has fallen on the teacher, who does not have any special books or teaching aids necessary for such a task. The teachers have asked in vain for a grammer book which would help to overcome the language problem of the Gypsy children. Many teachers are devoted to this problem, but have received no help whatsoever from the Department of Education.

The professional structure of the Gypsy minority is today much more one-sided than it was at times, when the Gypsies lived on the periphery of society and made a living using traditional Gypsy skills, which represented higher qualification than the professions they are engaged in now. Such traditional "Gypsy" professions as basketmaking or blacksmithing are still pursued, however, they are not open to Gypsies. Many of the traditional talents of Gypsy families are thwarted by the bureaucracy which requires permits to perform.

The Gypsies have, in the past, lived in dire poverty even though they were recognized as musicians and craftsmen. Today, Gypsy miners and workers earn much more but, nevertheless, they serve as an example that higher income and higher expenditure, does not automatically bring on a higher social standard. In view of the present economic situation the authorities need to have the Gypsy minority exactly where it is: uneducated, with no special aspirations, willing to move to seek unqualified work from one end of the country to the other, without even having a chance for proper accommodation. The lack of unqualified workers in such proportions as in our country is not a normal consequence of economic development. It is, on the contrary, the consequence of technical backwardness and deeper social disorders. This state of affairs cannot remain indefinitely. Despite all the disorders and shortages, as well as deficiencies in the direction of the economy, the time will have to come when the situation will level off

in accordance with international development. The need for unqualified workers will drop; this will cause great unemployment among the Gypsy population which, in turn, will expose this minority to pressures. Its status as a social outcast and its dire poverty will stimulate a new ethnic awareness which will get stronger as the suppression will get tougher.

The Gypsy minority is undergoing a process of social disintegration which has no comparison in the history of the Gypsies. This fact is substantiated by an ever increasing number of Gypsies who are being sentenced to loss of freedom.

The reasons for this happening are not only the social conditions under which they live including urbanization and loosening of family unity, but also the prejudiced positions of the Gypsies before the law as well as in society as a whole.

The so-called "specifically Gypsy criminality" is in many cases the direct consequence of unemployment among Gypsy youth as well as lack of basic education. There are very few employment opportunities for 15-16 year old Gypsies and even the employment office cannot find anything for them but the worst jobs in the worst surroundings. It is especially difficult for Gypsy girls who are, in many cases, left at home to look after younger brothers and sisters rather than being sent to seek employment. For this they face the threat of criminal persecution for "parasitism." In other cases this so-called "specifically Gypsy criminality" is the consequence of rapid biological and social maturation of the Gypsies. Early partnerships which generally lead to permanent relationships and the establishment of a family, are viewed and punished as immoral conduct, without regard for the entirely different way of living and cultural values of the Gypsies.

Unwritten laws which, for Courts in the CSSR are more binding than written laws, require stricter sentences for Gypsies than for others in the population. Also the fact that their knowledge of the Czech and Slovak languages is scant and their understanding of their rights non-existent, makes the Gypsies easy targets for discrimination. They are also detained more often and are discriminated against during their captivity in prison.

The saddest chapter in this persecution of the Gypsy minority are the court decisions regarding the placement of Gypsy children in children's homes against the will of the parents who are capable of bringing up their children. The Gypsies are, naturally, fighting such placements. There were cases where the police found the child with the help of a police dog while it was hiding under a bed. The forced transfer of Gypsy children from their homes to children's homes against the will of their parents is very often motivated by an effort to deprive an ethnic group of influence over its own children so that they become more susceptible to the influence of the majority.

The question of sterilization is very important. While medically acceptable in certain specific cases and sometimes even necessary, morally it is very problematical. The consent of Gypsy women to sterilization is obtained by certain suspicious means. In some areas the sterilization of Gypsy women is carried out as a planned administrative program and the success of employees is judged by the number of Gypsy women an employee has been able to talk into sterilization. Under such circumstances it is impossible to be objective about such a program. Often, in order to get consent for sterilization, the authorities offer financial reward. In this way sterilization is becoming one of the instruments of the majority against the minority aimed at preventing childbirth in a particular ethnic minority.

Subjugation of the Gypsies as a minority group forced them to organize in the 1960's as an Association of Citizens of Gypsy Descent. This organization has for the first time in our country tried to get the Gypsies motivated enough not to remain a passive subject of social assistance but a voluntary force of self- confident and equal citizens who would take part in decisions which would lead to adjusting this abnormal situation and who would also cooperate on the necessary changes that will have to be made. This organization started on its great task in a normal and forthright way. However, it is symptomatic of the situation in the CSSR that this organization was unacceptable for the "normalized" political arena in Czechoslovakia. Even though this Association of Citizens of Gypsy Descent offered its assistance and cooperation and always acted loyally, it was forced to terminate its activities in April of 1973. During the procedures which had to be followed while the Association of Citizens of Gypsy Descent was formally disbanded, the members of the Association were subjected to threats and pressures. However, they maintained their stand and showed perserverence and bravery which has no comparison in associations or clubs in Czechoslovakia in the 1970's. Gypsies, with high school educations, who were active in this Association, are now, in many instances, working as unqualified labor.

The authorities view the solution of the Gypsy "problem" in the elimination of this minority and its integration with the majority. By eliminating the minority one eliminates the minority problem. The theory behind it is that the Gypsies "are a dying ethnic group" which is "destined for extinction." In order to bring about this extinction the authorities are doing everthing in their power to prevent the Gypsies from making any gains in independent cultural and other activities, in attaining proficiency in their language and in learning about their identity; they are also trying to break their family ties and to disrupt their community life. However, this endeavor to force the integration of the minority with the majority, is, on the contrary, deepening the gulf between the Gypsies and the rest of the population. This endeavor, which is called "integration," is, on the contrary, leading to disintegration.

The real basis for the effort of the authorities to stimulate the integration of the Gypsy population with the majority is in fact a desire to forcefully assimilate this minority. The Gypsies are naturally fighting against this because it would deprive them of their heritage. The law of self-preservation forces the Gypsies to bridge traditional differences among various groups and to find a new, nationwide ethnic consciousness. There is also an endeavor to create a Gypsy literature which is having some success. However, the authors did not know the Gypsy language in their childhood and had to learn it as adults as was the case with some authors of the Czech national renaissance. The language vacuum in which the Gypsy minority found itself as a consequence of the repression of Gypsy culture inspired the Gypsy community to encourage its intellectuals to create literary works in the Gypsy language, which might result in the creation of a literary Gypsy language. However, the Gypsy authors are now isolated because of the policies of the Czechoslovak authorities but they are the ones who could help to stop the process of disintegration of their minority.

The actions of the authorities are, therefore, counterproductive because they miss and reject the only way in which integration can be achieved -- as far as Gypsies are concerned -- and that is group integration.

The goal of the government to eliminate this minority must, of necessity, lead to further increased repression. If the constant failures of this policy will not lead to a re-evaluation of the whole concept of how to integrate, the Czechoslovak institutions will soon have to answer charges that they are committing genocide -- para. 259 of the Penal Code. This law states:

> 1) He, who with the intent to eliminate fully or partially a national, ethnic, racial or religious group
>
> b) employs measures destined to prevent the birth of children in such a group or
>
> c) forcefully removes and transfers children from one such group to another group will be punished by loss of freedom for 12 to 15 years, or even by the death penalty.
>
> 2) Punished also will be all those who have participated in actions specified in para. 1.

If the forceful removal of Gypsy children and sterilization of Gypsy women continues at the same pace, it will not be possible to keep these actions secret and nothing will be able to prevent bringing formal charges (against the authorities) based on proof.

The influx of Gypsy families into industrial centers creates among the majority population -- which is not informed about Gypsy problems -- tensions which lead to segregation and racial attitudes. This brings the majority population -- despite the fact that it is excluded from any decision-making of the authorities -- into a situation where it also must accept moral responsibility and blame for the persecution the Gypsy minority is subjected to in Czechoslovakia. And those, who are actively carrying out the orders of the authorities concerning Gypsies are also legally and materially responsible.

Only the minority itself can decide whether it will integrate with the majority population, whether it will preserve its identity, whether it will remain an ethnic minority or whether it will develop into a national minority. Whether this decision-making process will come about quietly and peacefully or whether the process will be stormy will to a large extent depend on the way in which the majority population will accord the minority its rights. Without those rights the Gypsies cannot effectively pursue even those rights granted them by the legal system and they could not even effectively use those rights in cases where the authorities would abide by the provisions embodied in the legal system. Without group rights the Gypsies cannot develop any cultural activities which would assist them in preserving their identity, without which any proper social integration is not possible.

In the spirit of Charter 77 principles we suggest that all information kept secret with regard to Gypsies be publicized. We further suggest that (1) all illegal measures taken against the Gypsies and their cultural and organizational activities, be investigated and dealt with in accordance with valid laws; (2) that all respective departments and agencies, in cooperation with the CSAV and other organs, carry out and publish a serious and expert analysis of the situation of the Gypsy population; (3) make possible a public and free discussion concerning the solution of this situation; and (4) that a plan be prepared to correct the legally unacceptable situation of the Gypsies.

Without a truthful revelation of the seriousness of this problem, without a proper and basic adjustment in legal directives and without the participation of Gypsies themselves in the decision-making measures concerning their problem, the solution of this question will be illusory. This question is no longer only a minority question or an economic or social question. It is becoming a question of the conscience of the whole society.

Freedom to Travel Abroad

Document No. 24

On March 26, 1979, Charter 77 issued document No. 24 concerning the freedom to travel abroad. In the Preamble it states the following:

Freedom to travel is an important part of the legal status of the Czechoslovak citizen in accordance with the Czechoslovak Constitution and with the Covenant on civil and political rights. The present regulations concerning this basic right, are imperfect, contradictory and not in accordance with the provisions of the Constitution or the Covenant. This unsatisfactory state of affairs is made worse by various rules and instructions of the respective organs, which contradict even the current regulations and for which there is no legal basis. In his effort to realize this right to travel, a citizen is in many instances dependent on the arbitrary decision of a state organ or his employer, which, in fact, and de jure, makes his freedom to travel null and void.

Because this state of affairs has unfavorable consequences for citizens, a group of Charter 77 signatories, together with other experts, prepared a critical analysis of the legal aspects of the freedom to travel in Czechoslovakia.

In order to find a positive resolution of this dilemma, Charter 77 is submitting this document to the public, to the Federal Assembly - being the highest organ of state authority - and to the Federal government, being the highest executive organ of the CSSR. We welcome a discussion concerning this issue as well as serious suggestions with regard to this subject.

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Dr. Vaclav Benda	Zdena Tominova	Jiri Dienstbier
Charter 77 spokesman	Charter 77 spokesman	Charter 77 spokesman

Charter 77 spokesman, Dr. Jaroslav Sabata, is imprisoned.

Regulations on Foreign Travel by Czechoslovak Citizens.

As early as August 26, 1789, the French Declaration of Human Rights and the rights of a citizen proclaimed that human beings are born and remain free; liberty means freedom to act, so long as the freedom of others is not intringed upon, hence natural human rights have no boundaries, except for those which guarantee these same rights to other members in our society (Article 1.4).

An essential component of freedom is the right to move freely, not only within one's own country, but in principle, all over the world.

Twentieth century Man cannot be held in slavery[1] or in serfdom.[2] Neither can a state curtail the freedom of movement of its citizens and create a state in which some of the elements resemble slaves or serfs, under the pretext that the state holds unlimited power over "its" citizens.

The Universal Declaration of Human Rights, adopted by the General Assembly of the United Nations on December 10, 1948, formulated these generally applicable principles:

1. Every person has the right to move freely and to select a residence within a given state (Article 13, para. 1).

2. Every person has the right to leave any country, including his own, and to return to his own country (Article 13, para.2). Each person has the right to seek refuge from persecution in other countries, unless the persecution is justified by nonpolitical crimes or crimes which are in conflict with the objectives and principles of the United Nations (Article 14).

3. Every person has the right to citizenship; no person can be willfully deprived of his citizenship, or of the right to change it (Article 15).

The International Covenant on Civil and Political Rights (further referred to as the "Covenant"), specifically states that (Article 12):

1. Every person can freely leave any country, including his own. This right is not subject to any limitations, except for those which concurrently fulfill the following conditions:

a) they are set down by law;

b) they are necessary to maintain national security, public order, public health, morality or rights and freedoms of others;

c) they are in agreement with other rights recognized in this Covenant.

2. No person can be willfully deprived of his right to enter his own country.

The International Covenant on Civil and Political Rights was ratified by the President of the Czechoslovak Socialist Republic, after being approved by the Federal Assembly, and on March 23, 1976, became operative in Czechoslovakia. On October 13, 1976, it was published in the Collection of Czechoslovak Laws as no.120/1976.

Thus the Covenant is:

-- an international agreement which is obligatory for Czechoslovakia, and which Czechoslovakia is internationally responsible for respecting and enforcing domestically;

-- an act which legally governs internal relations, and as such, it is binding upon all state organs (Article 17 and 34 of the Czechoslovak Constitution since 1960).

The current Czechoslovak legislative approach to freedom of movement (residence) should stem from Article 31 of the Czechoslovak Constitution, according to which, freedom of residence is guaranteed. Contrary to objective social needs, the constitution does not recognize any restrictions of this right by law, and thus grants the freedom of residence as an absolute right. However, at the time of and after the drawing up of the constitution, a number of regulations were valid, which for various reasons limited the freedom of residence (these are justified and in agreement with the Covenant, for example, penal regulations governing custody, deprivation of citizenship, health regulations preventing the spread of contagious diseases, etc.). The Constitution does not contain any special provisions about the freedom of movement across borders (emigration) and includes this problem under the general notion of "freedom of residence."

In 1965 a new Code on Travel Documents (no.63/1965) was issued, replacing an inadequate 1949 code on passports, as well as a precise, and at that time still valid (although practically unused) 1922 Code on Emigration. Bound to the new code were hopes that a precise regulation would provide citizens with a legal right for a travel document, as long as they fulfilled specified terms.

The Code stated that citizens of Czechoslovakia can cross the national borders of Czechoslovakia or dwell abroad, only with a valid Czechoslovak Travel Document; these documents are issued by the Ministry of Interior, the Ministry of Foreign Affairs, and organs entrusted with this power.

A comparison of the amendments within this Code with the Constitution and the Covenant shows, that we are dealing with two relatively independent problems:

a) The right to be issued a travel document, (according to the preamble of the Code, the travel document must also contain an exit visa which contains information such as for which countries, for what purpose, for how many voyages, and for what length of time the travel document is valid. In this respect Czechoslovakia differs considerably from the majority of countries in the world.)

b) The right to leave the country. This right may be denied even to a person with a valid travel document, either through a public measure (for example, the closing of borders for medical, veterinary, military or other reasons as a part of an international agreement; or by actual cancellation of air, railway, and water travel) or for personal reasons which are related solely to travel abroad (for example, travel which was not approved by the Military Service Administration, whose consent is required by law)[4] or which lead to restrictions of the freedom of movement within the country (for example, a person detained in protective or punitive custody, is required to remain at a given location as a result of the outbreak of a communicable disease, in the case of an epidemic, etc., and thus cannot realize his rights as the holder of a valid travel document).

The Constitution and the Covenant refer to both these problems. Czechoslovak regulations and the legislative bodies, however, frequently attempt, without proper legal backing, to focus the entire problem on the issuance of travel documents and delegate sole authority to the Ministry of Interior, when some of the issues fall under different jurisdiction.

Most important in the area of the issuance of travel documents is the provision in Section 4 of the law which comprehensively enumerates the reasons for which permission for the issuance of a travel document may be denied.[5] They are exclusively the following:

1. the citizen's travel abroad would not be in harmony with national interests;
2. criminal proceedings are being brought against the citizen;
3. the citizen may through his behavior abroad, damage the good reputation of Czechoslovakia.

For these reasons, the travel document may be revoked or its validity limited; the travel document may also be revoked if the purpose of the travel for which the travel document was issued, no longer exists.

While reading these reasons, several doubts come to mind: Why is a citizen convicted for a criminal act committed, for example, in a traffic accident denied a travel document (the Penal Code itself contains no such limitation)? What does "damage to the good reputation of Czechoslovakia abroad" mean, and on what basis is it determined that the purpose of travel no longer exists when the issuance of the travel document is in no way related to the purpose of travel? The most serious problems are related to the notion of "harmony with national interests," as it is a rather vague notion which with inadequate legal guidelines can be interpreted arbitrarily, and differently in each case (especially when public opinion and other representative bodies have no influence upon these issues).

Thus an objection may arise: in reality, the citizen does not have the legal right to a travel document, as the question of what is and is not in harmony with national interests, can be interpreted completely arbitrarily by the authorities and, consequently, eliminate any vestige of a legal right.[6]

The Government of Czechoslovakia must have been aware of this and it is possible to assume that for this reason it issued an order which enumerates those cases in which the issuance of a travel document may be denied because the intended travel is not in accord with national interests (no.114/1969 Collection from October 8, 1969).

The formulation of the order, however, is surprising, and the reasons are presented in a strange manner.

The first group of reasons for which the issuance of a travel document may be denied contains the following:

-- if the trip abroad is in conflict with the protection of state's security
-- domestic order,
-- public health, and/or
-- morality.

At first glance, it is evident that the reasons were literally lifted from among the permissible reasons introduced in the Covenant (perhaps, this is because Czechoslovakia had signed the Covenant by October 7, 1968, and wanted to make it clear that it was being respected in legislative practice).

Initially, we assumed that the amendments were intended seriously and that the reasons given by the government were truly concrete reasons, on which the denial of a travel document could be based. However, through analysis we reached the following conclusions:

1. Although in principle the reasons are recognized by the Covenant, the leadership failed to notice that according to the Covenant, the concrete reasons must be stated by law and must be in accord with other rights respected by the Covenant. This is not mentioned in the Government Order.

2. The Government Order states that travel abroad is not in accord with national interests, if it is in conflict with national security, domestic order, public health or morality. That is to say, it considers all the restrictions which the Covenant deems acceptable as motivated by the protection of national interests. but as the regulations on travel documents include reasons other than national interest which can be the cause of denial of a travel document, and because the Government Order itself presents six further reasons, which are also in conflict with national interests, the Government Order states something which is a contradiction or what is referred to as a "legislative miscarriage." According to the Government Order, travel exists which is not in conflict with national security, domestic order, public health and morality, but which is in conflict with national interests in the sense of the Constitution. (Section 4 para. 1 (a) of the Code on Travel Documents, and other interests protected by this code; that is, in the case when criminal proceedings are being brought against a citizen, etc.) Thus, it is clear that the order is in conflict with the Code on Travel Documents, and, as we will see, with the Pact itself.

3. As the Government Order does not state that these reasons must be concretely stated by law, it gives the Ministry of Interior an open field for considering which circumstances of a citizen's case constitute a conflict to the interests of national security, domestic order, public health or morality. It could then be almost anything (that a bald person abroad might put our medical care and cosmetic industry to shame, that a nearsighted person would endanger traffic, that a person who does not greet functionaries could act impolitely, that many people could be "morally" or even physically endangered through exposure to sexual products or services, etc.). It should be added that, it is here that the tendency to concentrate maximum power over the public's welfare in the organs of the Ministry of Interior is readily evident and enables the Ministry to make the issuance of travel documents an instrument for a complex evaluation of citizens, in which the determining circumstances have nothing to do with the reasons acceptable by law and the Covenant.

It has already been said that the regulations on travel documents do not differentiate between short-term stay abroad (tourism, visiting, etc) and long-term stay abroad (i.e. emigration). Theoretically, the issuance of travel documents for both types of stay should be based on the same principles; in reality, it is not. In the case of many citizens, "national interest" does not interfere with their short-term travel abroad, but it interferes with their request for the issuance of an exit permit authorizing permanent stay abroad. The nature of the national interest which is the cause of rejection, is not officially communicated to the citizens -- at most it is indicated that it is not in the interest of the state for people with certain qualifications, of a certain age, etc., to emigrate. These reasons which have absolutely no support in the Covenant, or in the Code on Travel Documents, make it possible for the leading organs to allege that it is in the interest of "national security," etc.

4. The Code on Travel Documents has not given authority to the government to issue an implementation order, and thus the order has dubious constitutional or legal value (article 79 of Constitutional law no. 143/1968). Nevertheless, it is binding upon the lower organs. If we compare the reasons for denial of a travel document, which are comprehensively stated by law, with how the term "national interest" is interpreted by Government Order, we can clearly see that the law has not defined the term at all.

Following our analysis we would like to believe that perhaps the leadership did not intend to reach such a state, and that it may be a formulation error only. Such a puzzle could, however, only be solved by a constitutional tribunal, which according to the constitutional prescriptions from the year 1968, was to be established, but has not been set up so far. Citizens remain uncertain and can only be convinced through the practice of the administrative organs.

Let us continue. The Government Order, in addition to the first group, also states six other circumstances, which are not found among the reasons recognized by the Pact, but which, according to the leadership, constitute a conflict between the intended travel and the national interest. They are:

a) travel to a country with which Czechoslovakia does not have diplomatic ties;

b) the case of a visit to a Czechoslovak citizen, residing abroad without the permission of Czechoslovak authorities;

c) the case of a citizen, against whom legal proceedings are in progress for not fulfilling his tax responsibilities or financial obligations to the state or a Socialist organization;

d) the petitioner is a citizen, whose behavior suggests that he intends to remain abroad after the termination of his permitted stay;

e) the travel expenses are not covered by foreign exchange;

f) the case in which the petitioner has not been given a promise of hard currency, with the exception of travel to blood relatives, siblings and spouses, if it is not covered by letters a) and d).

It is easy to have doubts in most of these circumstances, as to whether they are in agreement at least with the Code on Travel Documents. According to the amendment to Section 4 of this code, it is possible to assume that if the law-maker believed that these circumstances are an obstacle in the issuance of a travel document, he would have stated so directly in the code.[7] (The order has, therefore, markedly overstepped the boundaries defined by law and introduced amendments which are not "under law," but rather on the "side of law;" and sidestep the exclusive legal power of the Federal Assembly, the highest representative body of Czechoslovakia.)[8]

It would be possible to polemicize about all the given reasons, but we will limit ourselves to the question of foreign exchange coverage, particularly, the promise of hard currency. It is questionable whether financial security for travel is in any way related to the problem of issuing travel documents, as neither the law on travel documents, nor the foreign exchange laws deal with it. Even more problematic is the manner in which the rationing of foreign exchange is carried out (in principle it is forbidden to purchase foreign currency).

A Czechoslovak citizen will, in principle, learn the following from a daily paper at the beginning of the year: The State Bank is accepting applications for foreign exchange for private travel to capitalist countries (or to Yugoslavia and others) in certain of its branches, by such and such date. Applications are to be submitted on prepared forms, and must be certified by the employer, school, social organization, the appropriate national council and so on, who must state that they agree with the proposed travel by the petitioner to a capitalist country and recommend expedient handling of the request. The bank notifies the petitioner only in the case of a positive decision, by mailing the foreign exchange promise by a given date. Questions are dealt with only at the branch where the application was filed. The method of determining eligibility is not regulated by any legal measures, and even elementary processing principles are not adhered to; reasons for a rejection are not communicated; the possibility of making an appeal does not exist. Aside from this, the decision of the bank is subject to the earlier affirmative "decision" by the employer, etc., who also is not bound by any legal

regulations for his determination and the possibility of reviewing the decision does not exist, even though the foreign exchange promise and the issuance of a travel document depend on the results of these "rulings." Further comments are clearly not necessary.

Having thus made our way through this subject, most appropriately expressed as hic sunt leones, we may think that we at least roughly know where we stand. That would be a serious error since there is still the Declaration of the Ministry of Interior and the Ministry of Foreign Affairs of April 4, 1970, no.44/1970, through which the code on travel documents is carried out. According to the authorizing provisions of the Code on Travel Documents, this declaration should determine the types of travel documents, the period and the territorial span of their validity, and the manner of applying for its issuance; in reality, the declaration goes much further, because in conflict with the Code, it states further considerable limitations. We will mention at least two of these.

Provision 10 of the Declaration states that with a petition for the issuance of a travel document, it is necessary to submit, among others:

-- acknowledgement of consent by the chairman, or the deputy chairman as appointed by the chairman of the organization by which the citizen is employed;
-- acknowledgement of consent by the principal of the school or an entrusted academic functionary of a college or university;
-- acknowlegement of consent of the local national committee from the area where the citizen resides, if he is not employed.

It is clear that if the citizen does not obtain the necessary consent he cannot submit the application for a travel document, and his request cannot be complied with. The chairman of the organization, the superintendent of the school or the local national council actually determine in the first stage, whether the travel document will or will not be issued (de facto already for the second time - the first was the requirement to obtain the promise of foreign exchange).

While:

-- the issuance of a travel document is a private matter of the citizen, which is in no way related to work or study relations;

-- work, school or national committee regulations are not given any legal guidelines for handling these questions, no procedures are set for them to follow, and no means for reconsideration exist;

-- a negative stance by the chairman of the organization, etc., can be motivated by practically any reason: and thus all the earlier thought about legal restrictions on foreign travel no longer make sense.

According to Article 10, para. 2, of the Declaration, the organs receiving applications for the issuance of a travel document[10] can require the applicant to submit further documents which may be used in making the decision. In practice, pre-1965 regulations are followed, which require citizens wishing to emigrate, to submit the so-called renunciation declaration[11] by which they surrender personal property accummulated up to the day of emigration and surrender all claims to the Czechoslovak state, particularly their claims for social security pension funds, etc. This practice naturally not based on any law, is clearly illegal and requires no further comment.

In connection with this, it is worth mentioning that in "travel with the intent to emigrate or reside permanently outside of Czechoslovakia"[12] an administrative fee must be paid in accordance with the regulations on punitive fees. (Resolution No. 162/1976)

-- "for receiving permission to emigrate" which can be set up at a maximum of 10,000 crowns;

-- for the eventual release from Czechoslovak citizenship up to 12,500 Czechoslovak crowns;

-- for permission to take out personal articles of clothing, up to 1000% of the price, that is, their value multiplied by ten.

The fee decided upon in individual cases is not set through legal guidelines and can be arbitrarily determined by the executive organs.

In conclusion, it is necessary to describe the procedures through which the various passport regulations are carried out. The executive order (law no. 71 1967) gives the appropriate organs the responsibility to proceed in agreement with other legal regulations in order to protect the interests of the nation and of society as well as the rights and interests of citizens and organizations and to work closely with citizens and give them the opportunity at all times to defend their rights, interests, etc. The overall process should reinforce the trust of citizens and their faith in its legality and credibility. Thus the appropriate organs should when justifying their decisions, state what facts were the basis for this decision, what considerations accompanied the evaluation of evidence, and the regulation on which the decision was based.

In reality, the so-called "passport organs" of the Ministry of Interior do not proceed in this manner. If the request for a travel document is denied because the travel would allegedly not be in the national interest, the citizen receives a standardized response, whose justification is based on a superficial reference to some legislation. The reasons for a particular decision are not given and the citizen thus cannot judge the legality of the determination. Procedures are similar for handling occasional appeals. Supervision of these decisions by the courts or other independent organs is not permitted.

As the reason for the denial of a travel document may be practically anything, and the citizen does not learn the true reason for denial, the entire legal process loses all its value.

II.

Guarding of National Borders

Citizens are prevented from avoiding the procedures of passport control and from leaving the territory of the Republic without the necessary permission: the national borders are strictly guarded.

The protection of national borders is covered by a special order (law. no. 65/1951 Sb.) according to which the Minister of the Interior can declare that the entry into or stay in a given part of the national territory is forbidden or allowed only with special permission (article 10). On the basis of this edict, a border zone has been defined which reaches quite far from the national border and encompasses some of the border villages: for this reason a special regulation was instituted by which residence in the border zone had to be reported. For example, a person had to be registered even if he were staying for only one night; for a longer stay, permission was required from the organs of the Public Security Force.

In 1964, a statute for the border zone was passed, but it was only published in a Collection of Directives (closed to the public) for national committees and did not constitute a legal guideline. According to this statute, the extent of the border zone is determined by the Minister of the Interior; inhabited villages are not included. The outer edge of the border zone is formed by the national border; the inner edge is determined according to the needs of national security, approximately at a depth of 1,000 to 3,000 meters inland, measured perpendicularly from the national border (after 1969 the border zone was considerably extended). Within the border zone, space is further differentiated. Entry into or passage through the border zone is permitted only with a pass issued by the organs of the Public Security Force. Entry is permitted for only serious reasons, such as working. It is forbidden to live in the border zone or to enter it between the time of sunset and sunrise. A number of other restrictions apply here.

In this manner, the national border is effectively isolated from the inland territory.

Guarding of the border zone is secured by a number of complex measures:

1. The main task falls to the border Guard.[13] It is an armed unit under the Minister of the Interior which consists of "selected members of the working class." Members of the border Guard have the same rights and duties as members of the armed services, except for the added authority of membership in the National Security Corps and in cases dealing with the security of the national border, they also look for criminal records and help in the definition of the offense.

A member of the border Guard has the right to use a weapon (Order no. 70/1951 Col) that is, even a firearm, against persons who have entered the national territory without authorization, or who are attempting to cross the national border and refuse to heed the warning; further, they can fire without warning during an escape attempt by arrested or detained persons or dangerous criminals. Without regard for the presumption of innocence, any person attempting to cross the border in the direction of a foreign country without permission can, in practice, be considered a dangerous criminal.

2. If required, the protection of national borders is further carried out by the National Security Corps[14] and members of the "People's Militia," an armed unit of the Communist Part of Czechoslovakia,[15] the Armed Railway Protection Corps[16] which was founded in 1974, the Armed Airport Protection Corps founded in 1976,[17] as well as members of the customs control.[18] Members of all these units can in certain circumstances resort to the use of firearms.

3. According to certain provisions, the protection of national borders is the responsibility of every citizen. "In order to secure the borders, various organs cooperate, but the most important aspects of this cooperation are steps taken to educate citizens to observe the rules set for the border zone, to assist in the protection of national security and to increase security and public order in the border area villages." (article 12, para. 1 of the Border Law Statute) In this sense, all citizens - including youth - are to watch every person who rouses any suspicion of trying to cross the border illegally and to inform the appropriate organs. This request evokes a positive response in some persons due to certain easily explicable psychological reasons such as the rewards given for successful intervention.

Volunteer members of the armed corps are organized in the Assitant Guard of the Public Security Force . Their participation in the defense of national borders alongside the Public Security Force,[19] or the Assistants to the Border Guard[20] is also relied on.

4. "International cooperation" among the countries of the Socialist Commonwealth can be seen even in the sphere of the protection of common national borders. For example, according to the bilateral agreements between Czechoslovakia and Poland and the Soviet Union, the border organs are obliged to assist one another in detaining a person who illegally crossed the border.[21] According to the agreement with Poland, the pursuit by organs of one state can be carried out on the territory of the other state to a distance of five kilometers without the approval of the organs of that state and, under given circumstances, the pursuers from the foreign state may resort to the use of weapons.

III.

Sanctions Against Illegal Emigrants

A person who leaves for a foreign country or remains abroad without permission is subject to a number of strict sanctions; various sanctions are used against his relatives and other persons.

A.

The Sanction of Criminal Law

As of the year 1948, any so-called "unauthorized departure from the country" has been considered a criminal act. Previously it had been considered only an offense. According to criminal law (no. 113/1973) the criminal act of "deserting the republic" is committed by: 1) the person who leaves the republic without permission (according to jurisprudence, it is uncertain whether such a person resided in the republic or whether he was visiting, and whether it is a case of a Czechoslovak citizen); 2) a Czechoslovak citizen who remains abroad without permission (according to jurisprudence it is not an immediate offense until the moment when permission for the stay abroad has expired, contingent upon the intent to remain abroad either permanently or for a long period of time).

The actual basis of this criminal act was amended in section 100 of the Penal Code.

The punishment is imprisonment for six months to five years, and correctional measures (work compensation can be reduced by 10-25% in the state's interest). Property may be confiscated in addition to one of the other measures. Under given circumstances, it is permitted to render additional punishment, such as to deprive one of honors and military rank.

Equally punishable as the completed act is the mere attempt or preparation of the act (subsection 7 and 8 of the Penal Code).

Further damaging is that this act is included in the category entitled "criminal acts against national security." Emigration is thus comparable to the dangers stemming from espionage, etc. Since the late sixties attempts have been made to reduce the nature of this offense from a criminal act (para 109) to a misdemeanor and, until the proper legislation exists, the situation should be resolved in one of the following ways:

1. According to section 3, para. 1,2 of the Penal Code, a criminal act is a socially harmful act; an act with a negligible amount of social damage is not a criminal act, even if it shows other signs of a criminal act. For example, in the case of a citizen entitled to a travel document, no criminal act is committed if the citizen remains abroad without formal permission from the state organs: the social harmfulness of his act remains so negligible that it cannot be regarded as anything more than a misdemeanor. (Public Law No. 60/1961)[22]

2. The second method stemmed from a procedural approach. According to para. 173, section 1, letter a of the Penal Code (the complete text was published under No. 148/173/Sb.) the investigator, or the pursuing organ is obligated to interrupt criminal persecution, if the circumstances cannot be investigated and cleared because of the absence of the accused. In view of the responsibility of the concerned authorities to investigate the actual state of the case and to consider all mitigating and damaging circumstances, this approach was, in principle, correct, since without proper questioning of the accused, such circumstances cannot be determined.

Since 1969, this process has also no longer been admitted. Instead, the process is conducted according to special resolutions on procedures to be taken against the fugitive, i.e. against the person avoiding criminal charges by staying abroad - subsection 302 to 306 of the Penal Code. All statements intended for the accused are addressed to the defense attorney who has the same rights as the accused. Summons to the principal presentation of evidence and the public hearing are conveniently displayed in the hallway of the court building and the proceedings are continued in the absence of the accused, regardless of the fact that he may not have been notified. This happens even in cases where the address of the accused is known and where international agreements on legal assitance could make it possible for a hearing to be held abroad.

A person who committed the criminal act, according to section 109 of the Penal Code, and who continues to reside abroad can be pursued by law at any time in the future upon entering Czechoslovak territory, since the time spent abroad is not considered time served (section 67 of the Penal Code).

Rather than correcting some of the anomalies of section 109 of the Penal Code, new categories of criminal acts, so-called "offenses," have been introduced which include "acts against the interests of the Socialist societies in the field of foreign relations;" such an offense is committed by a person who in any way breaks the rules of the travel documents or conditions for stay abroad by obtaining a travel document or an exit visa on the basis of false or incomplete information or who does not abide by the time or territorial restrictions of the travel document or the exit visa.[23] Until 1969, such actions could only be treated as a misdemeanor.[24] At this time, it is also possible to use the sanction of administrative fees.[25]

For comparison, one should know that a foreigner who enters the national territory illegally can only be punished by a maximum imprisonment of six months to three years (para 110 of the Penal Code). Unauthorized residence of a foreigner in the Republic is only a misdemeanor (para 17, section 1, letter c of Public Law No. 60/1961/Sb.) The lawmakers, thus, see more harm in a Czechoslovak citizen staying abroad without permission, than they do in a foreigner's illegal entry into Czechoslovakia or in his unauthorized residence in the country.

b.

Property Sanctions

From the year 1948, the principle of preventing at any cost "illegal emigrants"[26] from owning property in Czechoslovakia has been strictly enforced.

The first and fundamental step taken is that the emigrant is confronted with the confiscation of property. Typically, his act was of a political rather than criminal or property nature, and, thus, the reason for this measure is not to confiscate property which was obtained in a dishonest way.

Related to this punishment, however, are a number of other measures in the civil-legal sphere. The object is to include in the confiscation even property which the emigrant transferred to someone else prior to emigrating. By invalidating the previous property transaction, the emigrant remains the legal owner and his property is subject to confiscation in the interest of the state. The purchaser paid for the property believing that the transaction was valid and ended up being the person punished. Thus, the punishment aims at a person other than the offender. For a long time the practice of financial institutions and civil courts was such that many people who had obtained property from future emigrants voluntarily conveyed it to the authorities upon an order from financial institutions having realized the lack of an alternative. Frequently, this property was then bought from the state at a low price by certain prominent figures whose actions could only increase the bitterness of the public.

In 1975, the Ministry of Justice in Czechoslovakia prepared a surprisingly realistic, open and critical (albeit unpublished) document which dealt with this problem. During the same year, some decisions and rulings of the Supreme Court of Czechoslovakia were published, but these only removed some of the most serious "cosmetic faults."[27]

The starting point of the reasoning process of state organs is problematic in itself: the confiscation (loss of property is not, according to section 109 of the Penal Code, a mandatory punishment) may, but does not have to be carried out; the citizen may not even know that he has committed a criminal act by remaining abroad or that his behavior will be labelled as such. On the other hand, the person planning to emigrate may have sold his property in order to prevent its confiscation. It is clear that in this situation civil and criminal law overlap and are influenced by the politics of the courts.

C.

Work and Social Matters

In December, 1969, the Federal Assembly passed a law on "some of the consequences of workers staying abroad illegally" (no.161/1969), according to which the period of employment is included in the computation of total working time (if otherwise eligible)

-- in order to determine the salary level (viz. resol. section 103, para. 4 of the Work Code).

-- in order to determine health insurance benefits and other insurance, as well as the level of social security payments, only if the worker remained outside Czechoslovakia with the approval of appropriate state organs. If this condition is not satisfied, the period spent abroad is not taken into consideration at all.

Special mention should be given to a clause which was added to the social security law no. 121/1975. According to it, employment abroad is acknowledged in determining the level of social security payments only if the worker is a permanent resident of Czechoslovakia, a Czechoslovak citizen on the day when he becomes eligible to receive social security payments and has stayed abroad with the permission of the appropriate state organs (section 10, para. 2). Otherwise, no social security payments are sent abroad. Thus "emigrants <u>without</u> permission" will not receive any type of a retirement pension from the Czechoslovak state, regardless of the fact that they spent most of their productive years in Czechoslovakia, paid taxes and fees and in other ways contributed to the economy.

D.

Housing Matters

In view of the mass emigration following August, 1968 (at the beginning of 1970, there were still more than 5,200 vacant apartments in Czechoslovakia) a ruling was passed in 1970 (No. 15/1970/Sb.) according to which citizens residing abroad without permission of the authorities, lost - as of March 11, 1970 - the right to the use of their apartment. A simple certificate from the respective department of the Ministry of Interior represented sufficient basis for the respective national committee to confiscate the contents of the apartment and to allocate it to another citizen. The national committee was not obliged to provide alternate housing to the citizen whose apartment was occupied by someone else.

E.

Insurance

Insurance is a service provided in Czechoslovakia exclusively by the Czech and Slovak State Insurance Company. It is based on the right to monetary compensation in the case of an unexpected occurrence. It is, therefore, supposed to guarantee the citizen a certain sense of security. Despite the private nature of the matter, a few sanctions for breaking the rules on travel documents have also managed to find their way into this field.

In the area of personal insurance, (in the case of an accident, death, etc.) it is stated that insurance applies only to circumstances which occur on Czechoslovak territory or during a permitted stay abroad (section 3, resol. no. 49/1964). In the case of an "illegal stay" abroad, a strange situation arises; the insurance is valid, but payments are not refundable and the insurance company will not cover the claim.

In the case of responsibility for motor vehicle damage caused by a person living abroad permanently, (Czechoslovak emigrant) the Czechoslovak insurance company to which insurance payments were made will not cover the damages.[28]

F.

Foreign Exchange Regulations

Foreign exchange transactions between Czechoslovak citizens and foreigners are strictly forbidden and penalized.[29]

According to the Foreign Exchange Management Act No. 142/1970, the access to foreign exchange is granted only to persons living abroad with the permission of Czechoslovak authorities.

G.

The Ban on Pardoning Injustices Committed by the Czechoslovak State

The law on judicial rehabilitation was approved on June 25, 1968. Its preamble states: "the pardon of injustices committed in the past in the field of criminal law is the basic pre-condition for the renewal of full public trust in Socialist legality and justice. In particular, it is necessary to attain the complete rehabilitation of persons who were tried and sentenced for crimes against socialism which they never committed."

The amended form of this law, no. 70/1970, however, states that a court will not hear a petition presented by a person residing abroad illegally or a statement made in defense of such a person. Such a person, therefore, cannot be rehabilitated, even if concrete reasons for taking such a measure exist. This means that the rehabilitation of a few unjustly tried and convicted persons who belonged to an organization will have almost no effect on the status of another member of the group who is residing abroad. The previous unfair verdict remains valid in his case.

H.

Citizenship

The Universal Declaration of Human Rights of 1948 stated that every person has the right to citizenship and no person can be willfully deprived of his citizenship or of the right to change it. The term "willfull" deprivation of citizenship must be applied to cases in which it was not proven that the citizen seriously neglected the responsibility of loyalty to the state (meaning to an organized human society and not just to a leadership, political party, etc.).

The act of depriving a person of his citizenship was not introduced in Czechoslovakia until 1939, both in Slovakia and in the territory of what was known as the "Bohemian and Moravian Protectorate." This measure, which probably originated from the fascist concept of the relationship between the citizen and the state, receded in 1945, but after the Communist takeover in 1948, this measure was reintroduced. According to current regulations, the Ministry of Interior can deprive a person of his citizenship solely on the basis that he:

-- illegally left the territory of Czechoslovakia and resides abroad;

-- was staying abroad and failed to return by the given deadline;

-- has stayed abroad for an uninterrupted period of five years without a valid Czechoslovak travel document authorizing his stay.[30]

Several other reasons exist for depriving a person of his citizenship; for example, the case of a citizen residing abroad - even legally - who "through his acts" is damaging the interests of Czechoslovakia.

The act of depriving a person of his citizenship has definite personal and legal consequences. A person deprived of his citizenship becomes a "stateless person" towards whom no country holds specific responsibilities. From this stem serious problems in the field of international law. (At the International Forum, a number of documents have been received aiming at the prevention of statelessness by adopting the principle that a loss of citizenship occurs only at the time when the person involved has already attained another citizenship; Czechoslovakia, however, does not recognize this principle.)

I.

Restrictions of the Emigrants' Return to Czechoslovakia

Article 13, para. 2 of the Universal Declaration of Human Rights (1948) supports the right of every person to return to his own country. The Pact also states that "no person can be willfully deprived of the right to enter his own country." (Article 12, para. 4)

The right to return to a country is one of the fundamental rights related to citizenship; it is, therefore, considered conceptually impossible to ban someone from returning to a state of which he is a citizen (it should be noted that the Czechoslovak Penal Code, unlike that of some other countries, does not contain the penal measure of deporting a Czechoslovak citizen abroad, or of depriving a Czechoslovak citizen residing in Czechoslovakia, who does not simultaneously hold citizenship of another country, of his Czechoslovak citizenship).

Despite this, the Czechoslovak leadership's directive (no. 58 from March 15, 1977)[31] on relations with Czechoslovaks living abroad without permission of the authorities clearly states in article 15, para. 1 that a Czechoslovak citizen who has not shown interest in normalizing relations with Czechoslovakia after five years of stay abroad, will be banned from entering Czechoslovak territory.

The same directive also states that persons, who were released from Czechoslovak citizenship, have limited possibilities to enter Czechoslovakia and that persons who were deprived of citizenship are banned from entering Czechoslovak territory altogether (Articles 7 and 11).

Repercussions Against Relatives

Questionnaires submitted to workers in all fields contain a section in which they are required to report any (even distant) relatives living abroad, and state whether they are in contact with any of them. This issue is of considerable importance for the persons' "cadre profile" which is used in employment practice, school admissions, travel document issuance, etc.

We have already noted that it "does not concur with national interest" to visit a citizen of the CSSR, who is staying abroad without permission from the Czechoslovak authorities (para. 1, letter b, of Government Ruling #114/1969/Sb.).

The government directives from 1977, therefore, clearly state that:

-- A Czechoslovak citizen may visit a person residing abroad with the approval of the authorities, as long as he fulfills the conditions for travel to capitalist states (article 5). These conditions have not been defined by law.

-- A Czechoslovak citizen may visit a person whom the state has subsequently released from Czechoslovak citizenship on the condition that 5 years have elapsed since the beginning of his unauthorized stay (article 8).

-- Czechoslovak citizens who maintain contact with persons residing abroad, who were deprived of Czechoslovak citizenship, are not permitted to travel abroad, not even to the Socialist countries (article 12, para. 1). The nature of these ties is not examined, thus, the fact that it may be a case of closest relatives is ignored.

-- A Czechoslovak citizen may not visit a person who has not shown interest in normalizing relations with Czechoslovakia (article 13, para. 2). However, in the practice of the state organs, any trip to the West is understood to mean "visit to a person."

-- Minors, up to the age of 18 years, living in Czechoslovakia, whose parents remained abroad without the approval of the authorities, are allowed to visit their parents only in extenuating circumstances, such as death or serous illness in the family (article 15, para. 2). If the parents were deprived of citizenship, even minors will not be permitted to travel under any circumstances.

-- Emigration of minors, in order to be reunited with their parents who are staying abroad without permission from the Czechoslovak authorities or who were deprived of Czechoslovak citizenship, is seldom permitted (Article 15, para.3).

IV.

This legal analysis expresses the urgent need for changes in the laws, the revocation of regulations which limit the right of Czechoslovak citizens to travel and for legal protection of citizens from the arbitrary rule of the organs of power.

Notes

1. See Covenant on Slavery (in Czechoslovakia published as no. 165/1930) and article 8, para. 1 of the International Covenant on Civil and Political Rights.

2. See Article 8, para. 2 of the International Covenant on Civil and Political Rights.

3. This analysis does not deal with the problem of
   a) permitting the entrance of Czechoslovak citizens to foreign territory (as this is an internal concern of individual countries, based on international agreements, the issuance of travel visas, visa-free relations, etc.).
   b) the entrance and stay of foreign citizens on Czechoslovak territory (Czechoslovak resol. no. 63/1965, and respective international agreements).

4. Permission of the Military Service Administration for travel is required of persons subject to military service who have not completed their conscription duty, soldiers on active duty or on leave, as well as soldiers in the reserve ranks, or those involved in military maneuvers. Permission is also required of men and women soldiers whose services may be required. (Article 55 of the Constitution, on the conscription laws expressed in resolution 121/1978. Const. Art. 56 through 59-Government Order 21/1958.)

5. The enumeration of the reasons is complete; other reasons cannot be given for the denial of a travel document. These are the limits within which citizens have a legal claim to a travel document. The phrase "may be denied" expresses the authority of the administrative organs towards the citizen. It is questionable whether from the point of view of the duties of these organs this expression means also "must be denied," or whether it entitles the jurisdictional organs to discretion (May, but does not have to be denied). The travel document Code from 1928 used the expression "can be denied," which was interpreted as "cannot be issued." Regulations from 1965 must be interpreted in the same way on the basis of both theoretical reasons and the nature of the given reasons (the state could hardly allow jurisdictional organs to decide upon their own discretion whether to deny issue of a travel document, when the intended travel is against national interests). If the Czechoslovak Ministry of Interior is occasionally tolerant and permits the issuance of a travel document to persons who do not fulfill the conditions set by law, it is necessary to consider it as an equitable, but illegal, procedure which only points to the faulty nature of the mechanism, and a lack of legal procedure.

6. An absolute discretion could lead to a situation, in which anything could be held contrary to national interests, as anything could be included in the realm of national interest.

However, even discretion cannot mean arbitrary rule, as legal codes and public interest form a variety of barriers, which limit the room for discretion (one of the most important barriers being the principle of equal rights and equal responsibility for all citizens -- article 20, para. 1, of the Constitution -- from which stems the prohibition not "to measure with a double standard if analogous circumstances are presented). The legal and sociopolitical reality of these limitations is in principle recognized by the leading organs only in those areas which are subject to jurisdiction of the courts. In Czechoslovakia, the jurisdiction of the courts is not exercised even in the field of issuance of travel documents.

7. The lawmaker places the condition that the proposed travel would not be in the national interest in the same group as circumstances such as, that criminal proceedings are being held against the citizen, that he was convicted of a criminal act, and that he did damage abroad to the good reputation of the Republic. The last three circumstances thus do not create a conflict with national interests in the legal sense; from this it stems that the term "national interest" must be interpreted very narrowly in the legal sense.

8. "The amendment of all rights and responsibilities of citizens anchored in the constitution can be carried out only through law." This reflects the accepted principle that in these cases, legislative competence is relied upon. (Report of the Constitutional Council of the Czechoslovak National Assembly from June 9, 1966, on the analysis of existing laws and the tasks of the National Assembly in perfecting the legal code NS, CSSR, 1066, issue no. 84, pp. 4.) In some cases the legislative approach is actually used. For example, Law no. 102/1971, on the protection of state secrets states (Subsection 12, 14 and 15), that it is permissible to deny the issuance of a travel document to persons, who are privy to state secrets, this clearly being a case of "national interest," which was undoubtedly even earlier protected by laws on travel documents, and which can be used as a yardstick in the interpretation of this term in the sense of regulations on travel documents.

9. Earlier regulations from the year 1963 required only a statement by the plant council and the chairman of the organization or by the local national committee.

10. The Declaration does state that the travel document is primarily a "travel passport..." containing the respective "exit permit," but in this and other regulations it clearly differentiates between the travel document and the exit permit. It explicitly states that the exit permit is not the travel document: which means that the Declaration is illegal in this respect, as the term "exit visa" is not contained in the Code on Travel Documents, and thus the requirement of this visa is not justified.

11. Comparison of the earlier amendment of this declaration (supplement no. 21 of the 1952 Official Paper, with supplemental rules to the Code on Travel Documents, from article 11 a-d, declaration no. 114/1956).

12. Regulations on travel documents do not formally take into consideration emigration, and de jure, no "emigration passport" exists. It is all determined by the legally questionable exit visa, which states the amount of time a citizen can remain abroad, etc.

13. Between the years 1965 and 1971, the Border Guard was subordinate to the Minister of National Defense, which was supposed to show that its main function no longer was to carry out security tasks; now it is once again subordinate to the Czechoslovak Minister of Interior.

14. Const. para. 4 (ch), Public law no. 40/1974 Col, on National Security Corps.

15. Resol. no. 67/1977 Col.

16. Const. para. 9a, 9b and 9c, Public law no. 51/1964 Col., on Railways in law no. 104/1974 Col.

17. Const. para 29a, 29b and 29c, law on aviation, resol. 127/1976 Col.

18. Const. para 32 of the customs laws, no. 44/1974 Col.

19. Const. para. 54, law no. 40/1974 Col., notice no. 45/1974 Col.

20. Notice no. 59/1976 Col.

21. Article 17, and agreement with Poland resolution no. 80/1971 and article 22 para. 3 of the agreement with the Soviet Union resolution no. 87/1974.

22. It is generally recognized that it one is doing something which requires formal permission, without the permission to do so, while fulfilling all the conditions necessary for the granting of that permission, the social damage of one's behavior is less than if one did not attempt to fulfill those conditions. For example, the Supreme Court of the SSR ruled that "the fact that a person is driving a motor vehicle without a drivers license does not have to constitute a violation of an important legal responsibility (section 224, para. 2, Penal Code), it this person has the technical skills to operate a vehicle safely and is well-acquainted with the traffic rules." (Decision published in no. 39/1978 Collection of Court Decisions in Penal Matters). This would simply be a case of a misdemeanor.

23. Section 5 (d), Public law no. 150/1969, and Public law no. 46/1973, 1, in which a clear distinction is made between a travel document and an exit visa.

24. In the case of a misdemeanor, a penalty of a reprimand or a fine of up to 500 crowns can be given; for an offense, the penalty can be imprisonment for up to six months, correctional measures or a monetary fine of up to 5,000 crowns (or confiscation of property).

25. The court fee can be raised or even doubled.

26. The term "emigrate" is used in the general sense meaning "to move from one country to another" without regard for motives and the manner in which the move is carried out.

27. Collection of Supreme Court decisions from 1975 published under Nos. 26, 33, 34 and 35.

28. Section 1, para. 1, resol. no. 123/1974 for CSR and resol. no. 124/1974 for SSR.

29. Similarly, any hard currency transactions with persons living abroad can only take place by means of the Foreign Exchange Banks.

30. Section 7 of the law no. 194/1949 Col; section 15 of SNR law no. 206/1968; section 14a of CNR law no. 39/1969; and no. 124/1969 contained in resolution no. 137/1969.

31. This directive is not and was not published in the Collection of Laws open to the public, but was released an internal circular (no. 4 1977).

Thesis on Consumption

Document No. 26

After almost a year of preparatory work, during which much consultation has been sought on several preliminary proposals, we are submitting to the Czechoslovak public and the Czechoslovak authorities a Thesis on Consumption, which is a collective endeavor of a team of authors with divergent points of view and orientation. The problem of consumption directly affects the everyday life of every citizen. To correct the problems in this area is unthinkable without making basic changes in public life - starting with economic and political changes and ending with the moral stand of society.

The team of authors decided that it would be best to prepare this document as a thesis, because the problems in this area are so great that it would be impossible to cover in one document all the issues involved. We hope that this document will become the basis for discussions, for responsible criticism and for suggestions on how to deal with the various problems involved.

We hope that some of the suggestions will be prepared in the form of documents on various issues - such as ecology, housing, health services, social problems, problems of pensioners and children, the role of unions and various social organizations, etc. We will also welcome any concrete suggestion with regard to practical solutions of even a part of a given problem.

Prague, May 27, 1979

Dr. Vaclav Benda
Charter 77 spokesman

Jiri Dienstbier
Charter 77 spokesman

Zdena Tominova
Charter 77 spokeswoman

Charter 77 spokesman Dr. Jaroslav Sabata is imprisoned.

* * *

...Crises in the area of goods and services production and consumption are brought about by the economic-political system in which we live; an improvement in the former will be impossible without fundamental changes in the latter. Our basic precept is that consumption of material goods cannot be the chief purpose of human life. We see such consumption only as a necessary means for the liberation of man from the dominance of things, as a tool for helping man to devote himself to his spiritual and physical development and participation in public affairs. Czechoslovakia has a peculiar quasi-consumer society. A relatively large portion of the population concentrates its efforts on the satisfaction of

various needs and desires which are often superfluous for development. These efforts require the spending of disproportionate amounts of energy and money but often result in little satisfaction to the consumer. Consumption as the chief purpose of life becomes a fetish, especially when it is difficult to adequately achieve.

...because of chronic shortages of all sorts of goods, people in our country do not go shopping for what they need but rather go hunting for whatever they can get. A consumer goes out into the streets knowing that any item might be unavailable at any time... He or she knows that he or she must buy any item being sold because there is no telling if, when or where it will be available later. As a result, one often buys items of low quality, which are expensive, and even unnecessary...Interminable standing in long queues, which is a characteristic East European phenomenon, has become a part of the martyrdom mentality affected by a majority of our people...All inhabitants of Czechoslovakia and especially women are being forced to devote their lives to the problem of obtaining things and of arranging for services...

...In the sphere of culture, critical shortages of offerings are multiplied by the lack of freedom of expression, creative activity and scientific research. The number of copies in which a book will be printed is determined by the ideological purposes of those in power. A great number of books and works of art and musical compositions are prohibited. People are starved for the products of culture -- as demonstrated for instance by the long queues in front of bookstores whenever something of even mediocre interest is to go on sale. The prices of cultural items shoot up the fastest...

...It is extremely difficult to obtain the services of tradesmen and artisans. but very many people will sell such services surreptitiously or exchange them for other services. Many trades have been made gradually valueless, including tailoring, shoemaking and repair, carpentry, plumbing and a number of artistic crafts...Poor management, shabby products and all the various problems with consumer goods and services have resulted in a shadow-economy which exists underground or behind the scenes. This economy is making the life of a great many people a bit more tolerable. And it is pushing our society to the shores of a new economic order. There are even brokers who have sprung up and who can obtain almost anything for the consumer; they use their contacts, bribes, or goods and services in exchange. There are tradesmen and artisans who will do a job on their own and off the books for high pay. but without them, some construction and maintenance and repair projects would never be accomplished. In the shadow-economy, goods and services are exchanged under the concept of "If you will rub my back, I will rub yours." A butcher will put a piece of liver under the counter for a salesgirl from a dress shop who will give him a pair of pantyhose in return. A grocery will return a favor by means of a packet of cocoa...The

goods and services exchanged are often stolen from enterprises. Sometimes they are used as "presents" and the higher the office of the receiver, the higher the value of the gift. Public property is thus being transferred into the private property of those who strive to have ever more and more. Police and security organs cannot prevent this because they are unable to eliminate its causes...

...There is, however, a group of citizens who do not have the worries of other consumers. This group consists of the privileged who can shop in special stores with exclusive goods, who can have the goods delivered, and who can even pay by checks sent by mail. These privileged ones know of shortages only from the press or from hearsay...

...There is a class of people in Czechoslovakia who live in poverty. Income statistics indicate that poverty in Czechoslovakia exists relatively to the same degree as in the industrial West...

...The shortage of housing, especially in large towns and in cities, amounts to a crisis...Young people and families often have to wait for many years for the allocation of a cooperative apartment. The waiting time can be shortened by self-help building construction, but to work for one to two thousand hours in addition to a full-time job is a physical and mental burden which often endangers one's health. State financed and managed building construction of apartments is by now for the privileged only. A company-owned apartment may appear advantageous but may in fact result in ties to the company which amount to serfdom...The housing crisis contributes to a moral crisis. Many young people are delaying marriage and many married couples break up because of the shortage of living space or disharmony with parents or other relatives who share the apartment...

...Undemocratic decision making, the unsatisfactory economic situation, increasing disorder, incredible waste, and inept management cause people not to care about their jobs, about the whole country, and often even about their own future. Alienation from jobs is accompanied by alienation from everything else; unneeded, superfluous work is accompanied by unneeded, superfluous consumption. The poor functioning of the market mechanism makes the consumer worried about his daily bread and other basic necessities. Superfluous consumption -- which consists of senseless striving for ever more ingenious and fashionable goods and ever more up-to-date status symbols -- keeps the consumer on an irrational and exhausting merry-go-round. The present political regime supports privatization oriented towards consumption in order to suppress the real concerns of the citizens such as creativity, critical appraisal, and interest in public affairs. Contrary to official declarations, the spirit of the petit-bourgeois has become the order of the day and the official program

for a new way of life. The typical characteristic of the petit-bourgeois is strenuous striving for money and privileges. In the situation in which we live, this striving ties the individual to the political system and makes him more dependent on it and less free than he would be if he directed his interests towards nobler aims: his education and enlightenment, the upbringing of his children, creative efforts, participation in public matters, aid and assistance to fellow citizens...

...The group in power is now in a difficult situation. They realize how serious it is but are afraid to initiate major changes. They consider the people of this country to be only a factor in an equation, a factor whose concerns are of limited consequence. They keep issuing urgent calls for increased labor activity along with amateurish decisions which are contrary to socialist principles -- decisions about wages, prices, time at work, etc. People react with apathy which cannot be explained by fear only. This apathy -- the "I don't give a damn" attitude -- often manifested by loafing at work is the result of knowing that diligence will bring no reward and that all efforts will be thwarted by mismanagement...

...The trade union organization should play its role. It should keep track of the cost of living, changes in prices and wages; it should make known what stand it is taking on increases or decreases in the living standard of groups such as senior citizens, families with children, etc. But it is not equipped to do that...

...If shortages of goods and services are to be alleviated, this country could not avoid the establishment of small enterprises owned and operated by individuals or families who would pay appropriate taxes -- enterprises such as repairshops, tradesman shops, small vegetable and other farms, small retail stores, small restaurants and small boarding room facilities. Of course, the establishment of such enterprises would require major legal preconditions...

SECTION III

NUMBERED DOCUMENTS ISSUED BY CHARTER 77 IN 1982

Statement of Charter 77 Concerning the Situation in Poland

Document No. 2 - 1982

"Some newspapers reported that Charter 77 supports the present situation in Poland, but Charter 77 never issued a statement to that effect. Charter 77 has always stood for the implementation and enforcement of the International Covenants on Human Rights and the spirit of dialogue of the Helsinki Final Act. The solution of a social crisis by military power or police power is alien to all that Charter 77 stands for. The abolition of personal freedoms, the incarceration of thousands of citizens without due process of law, the shedding of blood of fellow citizens, the revocation of union rights of workers and of all working people, the cessation of the activities of trade unions, which had been duly recognized by Polish legal institutions - all these are steps, which do not solve anything. On the contrary, they increase social and international tensions and represent a horrible investment in the future. However, we want to believe that a way will be found, in which there will be no victors and no defeated and which will enable the deep wounds to heal and the reconstruction work to continue."

Dr. Radim Palous, Anna Marvanova, Dr. Ladislav Lis
Charter 77 spokespersons

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(Charter 77 issued this statement despite warning from the Czechoslovak regime that any statements on the crisis in Poland would be viewed as "subversion.")

Five Years of Charter 77

Document No. 3 - 1982

The beginning of January, 1982, marks the fifth year of the existence and activity of Charter 77, the citizens' initiative, formed to expand respect for human rights in the CSSR. It is a free association of persons of varying convictions, views, faiths and interests, drawn together by the will to engage their efforts for full implementation of human rights, human dignity and creativity in our society.

Charter 77 was formed in the fall of 1976, after the provisions of the International Covenants on Human Rights (The International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights) were put into effect in our country (March 23, 1976) and published (October 13, 1976) under No. 120 in the Collection of Laws of Czechoslovakia. The International Covenants on Human Rights are based on the Universal Declaration of Human Rights and were adopted by the General Assembly of the United Nations in 1966. They were signed by the Czechoslovak government in 1968 and ratified in the fall of 1976. It is to be noted, that it was the ratification by the Czechoslovak parliament, which - besides making the Covenants legal in the CSSR - brought the number of participating states to the number required for giving the Covenants international validity.

Charter 77 was, in January 1977, signed by 241 Czechoslovak citizens, among them many well-known persons in cultural, political and religious life. This Manifesto welcomed the fact that the Czechoslovak state recognized these Covenants as an integral part of its legal system, while noting that up to that time, the legal system of our country, especially that which was used in practice, contained many irregularities which contradicted the provisions of the Covenants.

This Manifesto was addressed not only to the competent and constitutional organs of the Republic, but also to the public. The signatories expressed their willingness to work towards the full implementation of the provisions of the Covenants in our country and they offered their cooperation not only to the state organs responsible for carrying out these provisions, but also to all citizens, who are concerned with these problems.

The name "Charter 77", which was chosen for this initiative, is linked to the historical process, by which the respect for human rights, fundamental freedoms and the dignity of man, gained recognition as an integral part of the policy of peace, security and cooperation among nations. This process extends from the Atlantic Charter, which formed the anti-fascist alliance in the fall of 1941, to the Charter of the United Nations in 1945 which changed the war-time alliance into a universal organization for peaceful settlement of issues and which was finalized in the Final Act of the Conference on Security and Cooperation in Europe in Helsinki in 1975.

The activities of Charter 77 are in full conformity with the Czechoslovak legal system, Article 29 of the Czechoslovak Constitution gives the right to every Czechoslovak citizen, individually or in association with others, to submit proposals, suggestions or complaints to the constitutional organs. The contents of the Manifesto, as well as the announced activities of Charter 77, are in conformity with Article 17 regarding the duties of citizens and organizations towards the full implementation of socialist legality in society, and their duty to abide by the legal system, into which - as was mentioned before - the state inserted the provisions of both Covenants, which it ratified, and which, with its signing of the Final Act in Helsinki, it faithfully promised to implement.

The existence of Charter 77 and its activities are actually recognized in the Final Act, which states that respect for human rights is one of the conditions of real peace, security and cooperation among nations. It also gives the right to every citizen and inhabitant of the states participating in the Conference on Security and Cooperation in Europe, to know and act upon his rights and duties in this field. This includes the right to judge to what extent his rights are being respected by the state authorities, and to submit, individually or collectively, proposals and suggestions.

This internationally recognized right to demand from the state authorities respect of rights guaranteed by a national agreement or treaty, represents great progress in the development of international rights. Morally and politically, recognition of such an action is a contribution to the fulfillment of goals specified in the Final Act. After all, an appeal for such an action was signed by the President of the CSSR, in his function as the General Secretary of the Communist Party of Czechoslovakia in the closing document of the Conference of European Communist and Workers Parties in July of 1976, which called for the intensification of the democratic process of European cooperation, and included, specifically, the implementation of the Covenants on Human Rights prepared in the United Nations by all European countries.

The publication of Charter 77 on January 1, 1977 and of all other proposals, suggestions and complaints addressed to the respective state organs, is in harmony with Czechoslovak laws. Article 28 of the Constitution guarantees the freedom of expression in all spheres of the life of society, especially the freedom of speech and freedom of the press. Ratification of the International Covenant on Civil and Political Rights complements, through Aticle 19 of the Covenant, the provisions of Article 29 of the Czechoslovak Constitution by adding to this right the right to accept and disseminate any information and ideas, regardless of frontiers. The publication abroad of Charter 77 and of all subsequent materials, is, therefore, in conformity with Czechoslovak laws.

The citizens' initiative is engaged in an effort to secure implementation of the laws of the state - a state, which calls itself socialist. The fact that this state includes in its legal system the provisions of the Covenants, points to the absurdity of claims that efforts to have the provisions of the Covenants implemented are anti-socialist.

Despite its conformity with the legal system and with principles often proclaimed by official spokesmen, Charter 77 received from the very beginning of its existence, a negative, even hostile reaction from official quarters. Through widespread and dramatic police action, the authorities prevented the delivery of the original Charter 77 document of January 1, 1977 to the Federal Assembly and to the government. Signatories of the Charter were subjected to harassment and to measures which restricted their freedom and made their lives more difficult. Police actions which were taken against the signatories and are difficult to justify, were supplemented by dismissals from employment in violation of the Labor Law as well as International Agreements signed by the Czechoslovak government.

Even though the authorities did not permit the publication of Charter 77 in Czechoslovakia, they mobilized the media and ordered it to attack the Charter with innuendo, against which the signatories were not able to defend themselves. Through pressures in their places of employment, hundreds of thousands - even millions - of working men and women were forced to adopt resolutions condemning the Manifesto about which they knew nothing.

Even the Prosecution which, according to the Constitution, is supposed to see to it that legality is preserved, tried to give support through questionable methods to illegal measures and harassment against those whose actions were in conformity with the law and who demanded that the laws be observed. Nor are the authorities, to whom Charter 77 was addressed and to whom all other proposals of Charter 77 were sent, acting according to the provisions of the Constitution, which stipulates that they should

deal responsibly with citizens' proposals and suggestions and to answer their complaints. Despite the fact that these proposals submitted by Charter 77 are legal, reasonable and capable of solving problems and reflected the interests of the great majority of the population, the authorities chose to ignore them.

In contradiction of its own laws and obligations accepted in the interest of the policy of relaxation of tensions and peaceful cooperation, the authorities mobilized all means at their disposal and initiated many actions destined to silence and destroy the citizens' initiative, which demanded that they observe these laws and obligations. No one will ever know how many millions of crowns were spent, how many working hours were wasted, how much paper was used in the campaign against Charter 77; nor is it likely to ever be known how much gas was used by the police in their police raids and persecution of Charter 77 signatories while, at the same time, the authorities were asking citizens to conserve energy and other resources.

No one will ever be able to measure the scope or the number of illegalities, insults, injustices and brutalities against those who demanded and still demand the observance of principles and norms, as well as international obligations which the authorities themselves accepted and promised to abide by.

Dozens of citizens, working on behalf of their rights and the rights of others, were sentenced to long-term prison sentences on the basis of trumped up charges and indictments which lacked proper documentation. There are cases where brutal physical force was used and there have been victims of this physical force. However, it is possible to state, that this campaign of repression which began in the first months of 1977 and which continues in various forms and intensity to this day, has not succeeded. All the resources and means which were used and mobilized in order to destroy Charter 77 have been wasted. Charter 77 has not been destroyed. On the contrary, the campaign against the Charter has made the Charter popular at home and abroad. This initiative could have remained limited only to the persons personally involved had the authorities used legal means in dealing with it. Because of their absurd reaction to Charter activities, the Charter was thus presented to society as an important political force. Due to the actions of the authorities, millions of people became interested in the Charter 77 Manifesto which was not sensational since it merely stated facts already known. Hundreds of persons added their signature to the original 241 signers despite harassment, repressive actions and persecution. Numerous Charter 77 signatories were forced to emigrate. Only a few individuals withdrew their signature because of these police actions.

Due to the repressive actions of the authorities against Charter 77 the general public abroad, especially those interested in international cooperation, had a chance to examine the legal, constructive character of Charter 77 and its support for peaceful

cooperation in Europe. It is not by accident that Charter 77 has since its publication enjoyed the sympathy and solidarity of persons, movements and organizations, who are presently in the forefront of the disarmament movement and against the return of the atmosphere of the cold war. It is not the fault of Charter 77, if, due to the actions of the authorities, these circles abroad have doubts about official Czechoslovak pronouncements on peaceful cooperation.

In its proposals and suggestions, Charter 77 has pointed many times to these doubts generated abroad by the actions of our authorities and has suggested how to dispel these doubts. Charter 77 signatories are grateful to their friends abroad for their sympathy and expressions of solidarity, which are motivated by an honest effort to contribute to the spirit of Helsinki and which should refute charges that Charter 77 is being supported, or even directed, by some imperialist centers. Charter 77 signatories are not happy about the fact that actions and illegal persecution directed against them or against other non-conformist citizens of Czechoslovakia, give Czechoslovakia a bad name abroad and do not serve the interests of our country.

In their letters and proposals - which our state organs ignored or which were met by further interrogations, detentions and other forms of persecution - Charter 77 spokesmen have repeatedly pointed out that these illegal steps against them appear on the agenda of meetings or conferences which review how obligations, accepted by constituent states, are being implemented, including the Conference on Security and Cooperation in Europe, held in Belgrade in 1977, and in Madrid in 1980, and the International Labor Conference in 1979. The spokesmen have, at the same time, submitted constructive proposals, are how to confront such situations. It is not their fault and it does not give them any satisfaction that during these meetings representatives of our Republic have found themselves in embarrassing situations unable to defend the reputation and/or the interests of our Republic.

Despite the fact that five years of Charter 77 represent five years of persecution, oppression and harassment for those who are in or support the Charter 77 movement, its energies have not been exhausted in self-defense. Its main thrust, now as before, lies in its constructive and positive outlook. Its goal is to persuade the authorities to abide by the agreements they signed specifically in the field of human and civil rights. Evidence to this effect has been submitted to the authorities on many occasions, especially in proposals on legislative and administrative adjustments or amendments, as is stipulated in both Covenants in Article 2. A major proposal to that effect was submitted by Charter 77 spokesmen at the beginning of 1978.

In addition, Charter 77 spokesmen submitted proposals and suggestions on many other subjects, such as: (a) the problems of implementing the labor laws; (b) the practice of admitting students to colleges and universities; (c) the implementation of union rights; (d) the problems of freedom of religion; (e) the respect for human dignity in correctional institutions; (f) the implementation of economic rights of citizens as consumers; and (g) the application of the right to a healthy environment, as specified in the proclamation of the United Nations Conference, which addressed this subject in 1972. These proposals and suggestions were prepared by experts in their respective fields.

The official response to these proposals and suggestions was to ignore them and unleash police actions against Charter 77 spokesmen. Such actions cannot be considered as implementation of Article 29 of our Constitution, which requires the authorities to properly consider problems affecting the entire society.

Charter 77 survived five years of constant efforts on the part of the authorities to destroy it. It has thus demonstrated its right to existence as an informal association of persons of varying viewpoints, convictions, faiths, interests and temperaments, joined by a common feeling and consciousness of social responsibility. They are also bound by the determination to strive for human dignity as well as for the values which are currently being ignored by the authorities, in large part, due to the consumerism into which our society was forced as a result of events of 1968.

In its encouragement of active democratic citizenship and determination to live in truth, Charter 77 follows good national traditions, which for centuries have been the basis of our national existence. This enables the Charter to cooperate closely with various creative and non-conformist groups and movements in the arts, science and technology. Charter 77 is trying to establish a dialogue with these groups, as well as discuss, within the Charter itself, various aspects of life in our society. Without claiming to speak for everyone, the Charter, speaking in the name of all who participate in this movement, is trying to reflect the interests and social needs of the silent majority of our society. The essential tasks of Charter 77 remain to overcome the resignation of this silent majority and to raise its civic conscience, responsibility and courage. These tasks are being approached positively and constructively in the spirit of the Charter 77 Manifesto. Those who want to appeal against the unqualified and ineffective administration of our institutions, against corruption in all aspects of our society, against the indifference of those in power as well as out of power, must realize sooner or later that such appeals can be effective only when accompanied by guarantees of respect for human dignity and for the rights and views of those who are doing the appealing. Politically mature society cannot be achieved and cannot function without respect of human and civil rights applied equally to all citizens.

This lesson can also be learned from the stormy events taking place in our northern neighbor. Charter 77 is attentively following these events and is very sympathetic with those in Poland who are striving for the recognition and implementation of this simple truth in solving the crisis in their own country.

Charter 77 continues to exist. Because our society continues to need it, because the problems Charter 77 brought to public attention are not being resolved, and because all efforts to destroy Charter 77 have failed, the Charter has become one of the realities of our life. This fact is recognized, even if indirectly, by those who initiated and organized the attacks on it. The Charter remains serious in its active, democratic, civil responsibilities and commitments; it remains a movement, even if relatively small, which takes its mandate seriously and which, on the basis of this mandate, forms its relationships and gains greater understanding and tolerance as well as respect for the views of every one of its members.

Because of the need for its existence, the Charter will continue to live and function, even if there should be further efforts to suppress it. All Charter 77 documents, including its Manifesto, remain as valid today as they were when prepared and submitted to the authorities. Charter 77 will, in this spirit, continue to express its views on problems which obstruct the positive development of our society and will continue to submit proposals and suggestions for solving such problems. Charter 77 will continue to protest unjust persecutions, which hurt not only the victims of such persecutions, but which also harm the interests of our society. In this effort, Charter 77 will be united with all who, either at home or abroad, are striving for a human relationship in peace, based on freedom and justice for all.

Prague, January 7, 1982

Dr. Radim Palous, Charter 77 spokesman; Anna Marvanova, Charter 77 spokeswoman; Ladislav Lis, Charter 77 spokesman
Dr. Bedrich Placak, Dr. Jaroslav Sabata, Vaclav Maly

An Appeal Regarding the Imprisonment of Havel, Benda, Dienstbier, Uhl, etc.

Document No. 4 - 1982

To the Federal Assembly of the CSSR
Prague:

A year has now passed since we have contacted you with a request to investigate the constitutionality of sentences meted out by the Municipal Court in Prague, No. 1T23/79, dated October 23, 1979 and by the Supreme Court of the Czechoslovak Socialist Republic No. To-I-4/79, dated December 20, 1979, which in our view, violated socialist legality and harmed the interests of the Republic abroad.

According to the sentences cited above, the following persons have been found guilty of the criminal offense of subversion of the Republic: Otta Bednarova, Vaclav Benda, Jiri Dienstbier, Vaclav Havel, Dana Nemcova and Petr Uhl. They were sentenced to long terms in prison. In these sentences, the activity pursued by these citizens in accordance with Article 17 of the Czechoslovak Constitution and the Ruling of the Federal Assembly, dated April 5, 1977, (which commit citizens to see to it that socialist legality is being implemented and to take the proper steps if it is being violated) is considered criminal, even though both the Constitution and the Ruling specify that the expansion of citizens' rights is a permanent task.

For your information we want to state that during the whole trial the basic legal rules of the Penal Code were not respected. For example, right after the arrest of the above-named citizens, the media, in violation of the constitutional principle of "being innocent until proven guilty", published a report of "their subversive activities" in June, 1979. The Courts excluded the public from the trial (including accredited foreign correspondents and the Vice-Chairman of the International Association of Democratic Lawyers and a member of the World Council of Peace, John Platt-Milles) and arbitrarily assessed the activity of the accused as subversive.

Due to the fact that nothing helped to redress the wrong done to these citizens and that four of those sentenced are still serving their term in prison, we wrote to the Federal Assembly (on January 9, 1981) and requested a review of the whole case. The appeal was addressed to the Federal Assembly because we do not have as yet a Constitutional Court in the CSSR which has the task of reviewing controversial interpretations of the legal system, as well as inconsistencies within the system. Regrettably, in this case - as in many other cases - the norms of the Penal Code that are being applied, are in contradiction with the International Covenants on Civil Rights, which have become an integral part of our legal system. The following citizens have also been victims

of the arbitrary interpretation of the Penal Code: Josef Adamek, Rudolf Battek, Jiri Gruntorad, Jan Litomisky, and Frantisek Lizna, as well as those citizens, who have been detained for such a long time: Karel Kyncl, Eva Kanturkova, Jan Mlynarik, Jirina Siklova, Jan Kuml, Jiri Kuml, Milan Simecka and others.

However, even after the passage of a whole year there has been no improvement in the situation, and we have even received an acknowledgement that our letter was received and that the matter was dealt with. It is our opinion that such a state of affairs only worsen an already undesirable situation, and raises doubts about the existence of the basic legal assurances for our citizens and harms the international interests of our state. We sincerely hope, therefore, that this time our request to deal with the problem will meet with the proper interest and that a review of the cases will take place which will lead to the revocation of these - and perhaps other - illegal sentences.

Dr. Radim Palous, Anna Marvanova,
and Ladislav Lis
Charter 77 spokespersons

Prague, February 10, 1982

STATEMENT of Charter 77: "Day of Solidarity" with Poland

Document No. 5 - 1982

The Czechoslovak citizens' initiative, Charter 77, joins progressive public opinion in expressing its support for the "Day of Solidarity" with the people of Poland on January 30, 1982.

We are of the opinion that violent repression cannot lead to a real solution of the problems in Poland. It is necessary for all the representative groups of Polish society to participate in the solution of the Polish crisis including, undoubtedly, the workers' Solidarity and the Catholic Church.

Ladislav Lis, Anna Marvanova, Radim Palous
Charter 77 spokespersons

January 30, 1982

The Standpoint of Charter 77

(on the price increases of basic foods and on certain economic questions as well as some general solutions.)

Document No. 6 - 1982

Even though at the beginning of the 1970's, the highest state representatives pledged their efforts towards the stabilization of the essentials, the prices of goods and services have since then been - openly or secretly - increased several times.

Now again, after long delays and hesitation, the Czechoslovak government decided to increase the price of some of the basic foods. Even though the government at the same time announced some compensatory measures with regard to wages and incomes in the social services, this increase in prices reduces the living standard of the majority of the population. It represents an admission of the unfavorable state of the Czechoslovak economy and a signal of what may yet come.

It is at the same time an indication of how the government is planning to solve the growing economic and social problems. While the latest price increase may not be so extensive as to cause a substantial lowering of the living standard, it will leave its mark in other ways if we take into consideration the general trend of price adjustments over the past few years.

The price of coal, electricity and gas was increased by 50 percent; gas (for driving) was increased about 300 percent; crude oil, by 200 percent; potatoes, by 100 percent; coffee beans, by 60 percent; some types of textiles, children's wear and shoes, by 50 to 100 percent; postage and telephone service, by 60 to 100 percent.

We have calculated that the price increase for a family of four (two adults and two children), which is the most representative in Czechoslovakia, would increase average expenditure by about 300 - 500 Kcs, while the increase in family allowance for two children comes to only 80 Kcs. Arguments that our living standard is still good - should anyone believe that - have to be measured against evidence that we are still far behind the industrially advanced nations. The living standard of individual Czechoslovak citizens cannot be measured by references to their average monthly income. We have to recognize that behind such an average there are social differences which are caused only in small measure by differences in wages. These differences are much more influenced by the number of working adults in a family and by the number of children. However, at the same time, these differences are increasingly caused by various privileges, resulting from privileged political positions, by semi-legal and illegal advantages including incomes resulting from stealing and pilfering, from bribes and corruption.

The average income of a family with children is approximately 40 percent lower per head than for a childless family. About 10 percent of families do not reach the minimum living standard. And about 10 percent do not have their own apartment. On the other hand a certain privileged group owns luxurious villas which in many instances are converted from community property to personal property. These villas have often undergone expensive repairs or remodeling and are sold for a low price, which does not correspond with the amount invested. It is estimated that there are today in the CSSR tens of thousands of millionaires, supposedly double the number since 1947.

We ask, apprehensively, if and when there will be another increase in prices. According to official data, the growth of personal consumption per person has during the past several years ceased, and for the fourth year in a row, its level is falling. Regardless of official statistics, every citizen should demand information about the actual fluctuation of real wages. He should know, for example, how many hours he had to work in order to buy so much meat, so many pounds of potatoes, or a suit or a pair of shoes, or 10 litres of gas in any given year; for instance, in 1953, 1960, 1970, or 1982. He should also know how his position compares with the living conditions of workers in other countries.

Czechoslovak citizens should, of course, be informed not only about such statistics in the area of real wages, prices and the consumer index, but also about basic problems, about the deeper reasons for failures, about the serious shortages and losses in the economic sphere. They should also be informed about effective proposals on how to solve these problems, or they should be able to demand such proposals. And more than that. Citizens should have influence on the removal of the negative aspects of economic life. Qualified and experienced persons should be able to have a say in the most basic questions concerning the national economy, including questions dealing with the structure of production, as well as with the quality of the controlling cadres.

In its document entitled, "Thesis on Consumption", Charter 77 in 1979 brought attention to the difficulties and problems Czechoslovak citizens encountered as consumers. At the same time, Charter 77 tried to point to at least a partial correction of the problem. Above all, Charter 77 maintained that the problems of consumption cannot be viewed apart from other factors affecting all of society. As the document says - the very type of economic and political system in which we live leads to crisis situations and the correction of consumption problems is possible only through basic changes in this area. Individual endeavors to make the economy healthier, such as the "Collection of measures" which increases prices and endeavors to limit management while advising us to economize, etc., cannot bring the desired results, as long as stringent central and branch management ties up production forces and suppresses initiatives of economic units, groups and individuals. As was already noted by many economists in the 1960s

and as is noted in the enclosure to this statement,* it is imperative for the structure of the Czechoslovak economy to undergo a radical change - since, among the industrially advanced nations, it is the most pinched in the area of investment, employment and energy.

Democratization of the economy and of society are the main pre-conditions for the development of commitment and initiative of people, without which it will not be possible to find a way out of the present situation. Preventing progress are above all, so-called "cadres-ceilings", which are ideological barriers, behind which certain power groups hide together with some very selfish private interests. This is also the cause of rampant bureaucracy and unproductive and costly state administration, which needs to be reduced but can't be without qualitative and conceptual changes. It is, in our opinion, necessary to awaken interest among our citizens in these problems - interest, which was, in the past decade deliberately suppressed.

It is also necessary that citizens and their elected representatives approach the controlling organs with questions and proposals regarding basic economic and political problems. To this end they should use existing organizations and evaluate their usefulness in the way they defend and enforce social interests. The natural basis for defending society's economic interests should be the trade unions and national committees. Trade union members and all committees should systematically follow the fluctuation of wages, prices, living expenses and other aspects of economic and social life in various age groups and professional groups, in different family structures and in different parts of the Republic. The public would certainly welcome it if information about these problems were made public and if unrealistic decisions would be met with opposition. The prerequisite of all this is, of course, active citizenship - its complete revival. This means that citizens should, on various occasions, assert their responsibilities as for example, during elections of representatives to various organs or unions when they should stop giving formal approval to candidates selected elsewhere, but find ways to push through their own representatives.

The democratization of power would also mean - among other things - that this power would stop regarding criticism as subversion of the Republic and that it would ensure that citizens' initiatives are not persecuted by state organs as an anti-social activity or even as a criminal act. In order to be able to participate responsibly in the economic life of our country, and to be able to look for ways which would assist in correcting the unfavorable state of affairs in our society, citizens have to have assurance that constructive activity will not be persecuted. Those who were sentenced to prison, some of them for many years, for expressing their views should be released from prison; those who were, for political reasons, fired from their employment and who were forced to accept positions in unqualified jobs, should be permitted to return to their former positions.

The harassment and illegal persecution of those who have the courage to speak the truth about the state of our society and of the authorities who are directing it, should cease. All of us together, regardless of political opinions and basic life-style, are confronted with the task of how to manage our growing economic difficulties; we must do this because of our responsibilities to the future generations of this nation.

All of us together have the duty to create a favorable social atmosphere, if only to prevent the deepening of the current crisis. We believe that such a goal is within the power, the hands, the hearts, the minds and the courage of the Czech and Slovak people. We are convinced that the following would assist our development:

1) If the forthcoming convention of ROH (Trade unions) would discuss the present economic situation and related developments. The government of the CSSR would then explain to it the reasons for the increases in living costs and would submit a serious program for economic recovery, social development and improvement of the environment. The proceedings of the Convention should be made public.

2) If the Convention of ROH would prepare and publicize a program which would ensure the participation of all working men and women in the management of the economy and its operations, a program which would enable working men and women to control the activity of the state administration.

3) If, after the Convention, the Federal Assembly of the CSSR would consider and adopt appropriate legislation on: the state of the Czechoslovak economy, social development, the programs on informal participation of citizens in management and in the state administration, citizens' control of state organs, and the position of the Convention of ROH.

4) If all the political prisoners were released, namely: Josef Adamek, Rudolf Battek, Vaclav Benda, Jiri Gruntorad, Jiri Dienstbier, Vaclav Havel, Karel Kyncl, Eva Kanturkova, Jan Litomisky, Jan Kuml, Jiri Ruml, Frantisek Lizna, Jan Mlynarik, Jirina Siklova, Milan Simecka, and Petr Uhl; and if the illegal persecution of Charter 77 signatories and other citizens for their critical yet responsible opinions would stop.

The justification for our political and economic demands is supported by extensive information, which we enclose.*

Letter to the Congress of Czechoslovak Writers

Document No. 7 - 1982

"Five years ago, Charter 77 Document No. 12 (1977) brought to your attention certain facts which have been treated by official silence, namely - the existence of unpublished literature and of authors, who are being forced into inactivity. These are authors who not only do not have the possibility to publish under normal conditions, but who have been deprived of the basic tools for their work, as well as the basic means of their livelihood.

"Hana Ponicka at that time also was able to read her contribution to the discussion. This time, there is no hope that Hana Ponicka, or any other writer, will be able to submit such a statement for discussion, let alone read it. More authors are in prison now then they were five years ago. The works of some have been published belatedly and in small editions as well as in a different form - such as the works of Seifert, Mikulasek, Skacel and Hrabal. However, the number of authors, whose works are not being published is growing.

"We turn to you, the participants in the Congress, with an appeal to your moral obligation, which, in a cultured society concerns everyone, to enable every person active in cultural endeavors to voice his opinion, even if at first glance it seems quite abstract. It is impossible to remain indifferent for any length of time to obvious blunders which occur in one's closest professional environment, without this having an effect on all those who are engaged in the game of playing deaf and dumb, as well as blind.

"We are presenting to the Congress a list of 200 Czech authors whose work has recently been partially or totally banned from publication. The ban is anonymous and is directed towards authors of various generations and ideology from poets and novelists to songwriters, historians, critics and philosophers. It includes authors in Czechoslovakia and abroad, the living and those who have died recently but whose work has remained unpublished and unknown.

"As a supplement to the letter there is a list of silenced authors. There are 230 of them."

Dr. Radim Palous, Anna Marvanova, Ladislav Lis
Charter 77 spokespersons

Prague, March 3, 1982

The publication of Charter 77 on January 1, 1977 and of all other proposals, suggestions and complaints addressed to the respective state organs, is in harmony with Czechoslovak laws. Article 28 of the Constitution guarantees the freedom of expression in all spheres of the life of society, especially the freedom of speech and freedom of the press. Ratification of the International Covenant on Civil and Political Rights complements, through Aticle 19 of the Covenant, the provisions of Article 29 of the Czechoslovak Constitution by adding to this right the right to accept and disseminate any information and ideas, regardless of frontiers. The publication abroad of Charter 77 and of all subsequent materials, is, therefore, in conformity with Czechoslovak laws.

The citizens' initiative is engaged in an effort to secure implementation of the laws of the state - a state, which calls itself socialist. The fact that this state includes in its legal system the provisions of the Covenants, points to the absurdity of claims that efforts to have the provisions of the Covenants implemented are anti-socialist.

Despite its conformity with the legal system and with principles often proclaimed by official spokesmen, Charter 77 received from the very beginning of its existence, a negative, even hostile reaction from official quarters. Through widespread and dramatic police action, the authorities prevented the delivery of the original Charter 77 document of January 1, 1977 to the Federal Assembly and to the government. Signatories of the Charter were subjected to harassment and to measures which restricted their freedom and made their lives more difficult. Police actions which were taken against the signatories and are difficult to justify, were supplemented by dismissals from employment in violation of the Labor Law as well as International Agreements signed by the Czechoslovak government.

Even though the authorities did not permit the publication of Charter 77 in Czechoslovakia, they mobilized the media and ordered it to attack the Charter with innuendo, against which the signatories were not able to defend themselves. Through pressures in their places of employment, hundreds of thousands - even millions - of working men and women were forced to adopt resolutions condemning the Manifesto about which they knew nothing.

Even the Prosecution which, according to the Constitution, is supposed to see to it that legality is preserved, tried to give support through questionable methods to illegal measures and harassment against those whose actions were in conformity with the law and who demanded that the laws be observed. Nor are the authorities, to whom Charter 77 was addressed and to whom all other proposals of Charter 77 were sent, acting according to the provisions of the Constitution, which stipulates that they should

deal responsibly with citizens' proposals and suggestions and to answer their complaints. Despite the fact that these proposals submitted by Charter 77 are legal, reasonable and capable of solving problems and reflected the interests of the great majority of the population, the authorities chose to ignore them.

In contradiction of its own laws and obligations accepted in the interest of the policy of relaxation of tensions and peaceful cooperation, the authorities mobilized all means at their disposal and initiated many actions destined to silence and destroy the citizens' initiative, which demanded that they observe these laws and obligations. No one will ever know how many millions of crowns were spent, how many working hours were wasted, how much paper was used in the campaign against Charter 77; nor is it likely to ever be known how much gas was used by the police in their police raids and persecution of Charter 77 signatories while, at the same time, the authorities were asking citizens to conserve energy and other resources.

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cooperation in Europe. It is not by accident that Charter 77 has since its publication enjoyed the sympathy and solidarity of persons, movements and organizations, who are presently in the forefront of the disarmament movement and against the return of the atmosphere of the cold war. It is not the fault of Charter 77, if, due to the actions of the authorities, these circles abroad have doubts about official Czechoslovak pronouncements on peaceful cooperation.

In its proposals and suggestions, Charter 77 has pointed many times to these doubts generated abroad by the actions of our authorities and has suggested how to dispel these doubts. Charter 77 signatories are grateful to their friends abroad for their sympathy and expressions of solidarity, which are motivated by an honest effort to contribute to the spirit of Helsinki and which should refute charges that Charter 77 is being supported, or even directed, by some imperialist centers. Charter 77 signatories are not happy about the fact that actions and illegal persecution directed against them or against other non-conformist citizens of Czechoslovakia, give Czechoslovakia a bad name abroad and do not serve the interests of our country.

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This lesson can also be learned from the stormy events taking place in our northern neighbor. Charter 77 is attentively following these events and is very sympathetic with those in Poland who are striving for the recognition and implementation of this simple truth in solving the crisis in their own country.

Charter 77 continues to exist. Because our society continues to need it, because the problems Charter 77 brought to public attention are not being resolved, and because all efforts to destroy Charter 77 have failed, the Charter has become one of the realities of our life. This fact is recognized, even if indirectly, by those who initiated and organized the attacks on it. The Charter remains serious in its active, democratic, civil responsibilities and commitments; it remains a movement, even if relatively small, which takes its mandate seriously and which, on the basis of this mandate, forms its relationships and gains greater understanding and tolerance as well as respect for the views of every one of its members.

Because of the need for its existence, the Charter will continue to live and function, even if there should be further efforts to suppress it. All Charter 77 documents, including its Manifesto, remain as valid today as they were when prepared and submitted to the authorities. Charter 77 will, in this spirit, continue to express its views on problems which obstruct the positive development of our society and will continue to submit proposals and suggestions for solving such problems. Charter 77 will continue to protest unjust persecutions, which hurt not only the victims of such persecutions, but which also harm the interests of our society. In this effort, Charter 77 will be united with all who, either at home or abroad, are striving for a human relationship in peace, based on freedom and justice for all.

Prague, January 7, 1982

Dr. Radim Palous, Charter 77 spokesman; Anna Marvanova, Charter 77 spokeswoman; Ladislav Lis, Charter 77 spokesman
Dr. Bedrich Placak, Dr. Jaroslav Sabata, Vaclav Maly

An Appeal Regarding the Imprisonment of Havel, Benda, Dienstbier, Uhl, etc.

Document No. 4 - 1982

To the Federal Assembly of the CSSR
Prague:

A year has now passed since we have contacted you with a request to investigate the constitutionality of sentences meted out by the Municipal Court in Prague, No. 1T23/79, dated October 23, 1979 and by the Supreme Court of the Czechoslovak Socialist Republic No. To-1-4/79, dated December 20, 1979, which in our view, violated socialist legality and harmed the interests of the Republic abroad.

According to the sentences cited above, the following persons have been found guilty of the criminal offense of subversion of the Republic: Otta Bednarova, Vaclav Benda, Jiri Dienstbier, Vaclav Havel, Dana Nemcova and Petr Uhl. They were sentenced to long terms in prison. In these sentences, the activity pursued by these citizens in accordance with Article 17 of the Czechoslovak Constitution and the Ruling of the Federal Assembly, dated April 5, 1977, (which commit citizens to see to it that socialist legality is being implemented and to take the proper steps if it is being violated) is considered criminal, even though both the Constitution and the Ruling specify that the expansion of citizens' rights is a permanent task.

For your information we want to state that during the whole trial the basic legal rules of the Penal Code were not respected. For example, right after the arrest of the above-named citizens, the media, in violation of the constitutional principle of "being innocent until proven guilty", published a report of "their subversive activities" in June, 1979. The Courts excluded the public from the trial (including accredited foreign correspondents and the Vice-Chairman of the International Association of Democratic Lawyers and a member of the World Council of Peace, John Platt-Milles) and arbitrarily assessed the activity of the accused as subversive.

Due to the fact that nothing helped to redress the wrong done to these citizens and that four of those sentenced are still serving their term in prison, we wrote to the Federal Assembly (on January 9, 1981) and requested a review of the whole case. The appeal was addressed to the Federal Assembly because we do not have as yet a Constitutional Court in the CSSR which has the task of reviewing controversial interpretations of the legal system, as well as inconsistencies within the system. Regrettably, in this case - as in many other cases - the norms of the Penal Code that are being applied, are in contradiction with the International Covenants on Civil Rights, which have become an integral part of our legal system. The following citizens have also been victims

of the arbitrary interpretation of the Penal Code: Josef Adamek, Rudolf Battek, Jiri Gruntorad, Jan Litomisky, and Frantisek Lizna, as well as those citizens, who have been detained for such a long time: Karel Kyncl, Eva Kanturkova, Jan Mlynarik, Jirina Siklova, Jan Ruml, Jiri Ruml, Milan Simecka and others.

However, even after the passage of a whole year there has been no improvement in the situation, and we have even received an acknowledgement that our letter was received and that the matter was dealt with. It is our opinion that such a state of affairs only worsen an already undesirable situation, and raises doubts about the existence of the basic legal assurances for our citizens and harms the international interests of our state. We sincerely hope, therefore, that this time our request to deal with the problem will meet with the proper interest and that a review of the cases will take place which will lead to the revocation of these - and perhaps other - illegal sentences.

Dr. Radim Palous, Anna Marvanova,
and Ladislav Lis
Charter 77 spokespersons

Prague, February 10, 1982

STATEMENT of Charter 77: "Day of Solidarity" with Poland

Document No. 5 - 1982

The Czechoslovak citizens' initiative, Charter 77, joins progressive public opinion in expressing its support for the "Day of Solidarity" with the people of Poland on January 30, 1982.

We are of the opinion that violent repression cannot lead to a real solution of the problems in Poland. It is necessary for all the representative groups of Polish society to participate in the solution of the Polish crisis including, undoubtedly, the workers' Solidarity and the Catholic Church.

Ladislav Lis, Anna Marvanova, Radim Palous
Charter 77 spokespersons

January 30, 1982

The Standpoint of Charter 77

(on the price increases of basic foods and on certain economic questions as well as some general solutions.)

Document No. 6 - 1982

Even though at the beginning of the 1970's, the highest state representatives pledged their efforts towards the stabilization of the essentials, the prices of goods and services have since then been - openly or secretly - increased several times.

Now again, after long delays and hesitation, the Czechoslovak government decided to increase the price of some of the basic foods. Even though the government at the same time announced some compensatory measures with regard to wages and incomes in the social services, this increase in prices reduces the living standard of the majority of the population. It represents an admission of the unfavorable state of the Czechoslovak economy and a signal of what may yet come.

It is at the same time an indication of how the government is planning to solve the growing economic and social problems. While the latest price increase may not be so extensive as to cause a substantial lowering of the living standard, it will leave its mark in other ways if we take into consideration the general trend of price adjustments over the past few years.

The price of coal, electricity and gas was increased by 50 percent; gas (for driving) was increased about 300 percent; crude oil, by 200 percent; potatoes, by 100 percent; coffee beans, by 60 percent; some types of textiles, children's wear and shoes, by 50 to 100 percent; postage and telephone service, by 60 to 100 percent.

We have calculated that the price increase for a family of four (two adults and two children), which is the most representative in Czechoslovakia, would increase average expenditure by about 300 - 500 Kcs, while the increase in family allowance for two children comes to only 80 Kcs. Arguments that our living standard is still good - should anyone believe that - have to be measured against evidence that we are still far behind the industrially advanced nations. The living standard of individual Czechoslovak citizens cannot be measured by references to their average monthly income. We have to recognize that behind such an average there are social differences which are caused only in small measure by differences in wages. These differences are much more influenced by the number of working adults in a family and by the number of children. However, at the same time, these differences are increasingly caused by various privileges, resulting from privileged political positions, by semi-legal and illegal advantages including incomes resulting from stealing and pilfering, from bribes and corruption.

The average income of a family with children is approximately 40 percent lower per head than for a childless family. About 10 percent of families do not reach the minimum living standard. And about 10 percent do not have their own apartment. On the other hand a certain privileged group owns luxurious villas which in many instances are converted from community property to personal property. These villas have often undergone expensive repairs or remodeling and are sold for a low price, which does not correspond with the amount invested. It is estimated that there are today in the CSSR tens of thousands of millionaires, supposedly double the number since 1947.

We ask, apprehensively, if and when there will be another increase in prices. According to official data, the growth of personal consumption per person has during the past several years ceased, and for the fourth year in a row, its level is falling. Regardless of official statistics, every citizen should demand information about the actual fluctuation of real wages. He should know, for example, how many hours he had to work in order to buy so much meat, so many pounds of potatoes, or a suit or a pair of shoes, or 10 litres of gas in any given year; for instance, in 1953, 1960, 1970, or 1982. He should also know how his position compares with the living conditions of workers in other countries.

Czechoslovak citizens should, of course, be informed not only about such statistics in the area of real wages, prices and the consumer index, but also about basic problems, about the deeper reasons for failures, about the serious shortages and losses in the economic sphere. They should also be informed about effective proposals on how to solve these problems, or they should be able to demand such proposals. And more than that. Citizens should have influence on the removal of the negative aspects of economic life. Qualified and experienced persons should be able to have a say in the most basic questions concerning the national economy, including questions dealing with the structure of production, as well as with the quality of the controlling cadres.

In its document entitled, "Thesis on Consumption", Charter 77 in 1979 brought attention to the difficulties and problems Czechoslovak citizens encountered as consumers. At the same time, Charter 77 tried to point to at least a partial correction of the problem. Above all, Charter 77 maintained that the problems of consumption cannot be viewed apart from other factors affecting all of society. As the document says - the very type of economic and political system in which we live leads to crisis situations and the correction of consumption problems is possible only through basic changes in this area. Individual endeavors to make the economy healthier, such as the "Collection of measures" which increases prices and endeavors to limit management while advising us to economize, etc., cannot bring the desired results, as long as stringent central and branch management ties up production forces and suppresses initiatives of economic units, groups and individuals. As was already noted by many economists in the 1960s

and as is noted in the enclosure to this statement,* it is imperative for the structure of the Czechoslovak economy to undergo a radical change - since, among the industrially advanced nations, it is the most pinched in the area of investment, employment and energy.

Democratization of the economy and of society are the main pre-conditions for the development of commitment and initiative of people, without which it will not be possible to find a way out of the present situation. Preventing progress are above all, so-called "cadres-ceilings", which are ideological barriers, behind which certain power groups hide together with some very selfish private interests. This is also the cause of rampant bureaucracy and unproductive and costly state administration, which needs to be reduced but can't be without qualitative and conceptual changes. It is, in our opinion, necessary to awaken interest among our citizens in these problems - interest, which was, in the past decade deliberately suppressed.

It is also necessary that citizens and their elected representatives approach the controlling organs with questions and proposals regarding basic economic and political problems. To this end they should use existing organizations and evaluate their usefulness in the way they defend and enforce social interests. The natural basis for defending society's economic interests should be the trade unions and national committees. Trade union members and all committees should systematically follow the fluctuation of wages, prices, living expenses and other aspects of economic and social life in various age groups and professional groups, in different family structures and in different parts of the Republic. The public would certainly welcome it if information about these problems were made public and if unrealistic decisions would be met with opposition. The prerequisite of all this is, of course, active citizenship - its complete revival. This means that citizens should, on various occasions, assert their responsibilities as for example, during elections of representatives to various organs or unions when they should stop giving formal approval to candidates selected elsewhere, but find ways to push through their own representatives.

The democratization of power would also mean - among other things - that this power would stop regarding criticism as subversion of the Republic and that it would ensure that citizens' initiatives are not persecuted by state organs as an anti-social activity or even as a criminal act. In order to be able to participate responsibly in the economic life of our country, and to be able to look for ways which would assist in correcting the unfavorable state of affairs in our society, citizens have to have assurance that constructive activity will not be persecuted. Those who were sentenced to prison, some of them for many years, for expressing their views should be released from prison; those who were, for political reasons, fired from their employment and who were forced to accept positions in unqualified jobs, should be permitted to return to their former positions.

The harassment and illegal persecution of those who have the courage to speak the truth about the state of our society and of the authorities who are directing it, should cease. All of us together, regardless of political opinions and basic life-style, are confronted with the task of how to manage our growing economic difficulties; we must do this because of our responsibilities to the future generations of this nation.

All of us together have the duty to create a favorable social atmosphere, if only to prevent the deepening of the current crisis. We believe that such a goal is within the power, the hands, the hearts, the minds and the courage of the Czech and Slovak people. We are convinced that the following would assist our development:

1) If the forthcoming convention of ROH (Trade unions) would discuss the present economic situation and related developments. The government of the CSSR would then explain to it the reasons for the increases in living costs and would submit a serious program for economic recovery, social development and improvement of the environment. The proceedings of the Convention should be made public.

2) If the Convention of ROH would prepare and publicize a program which would ensure the participation of all working men and women in the management of the economy and its operations, a program which would enable working men and women to control the activity of the state administration.

3) If, after the Convention, the Federal Assembly of the CSSR would consider and adopt appropriate legislation on: the state of the Czechoslovak economy, social development, the programs on informal participation of citizens in management and in the state administration, citizens' control of state organs, and the position of the Convention of ROH.

4) If all the political prisoners were released, namely: Josef Adamek, Rudolf Battek, Vaclav Benda, Jiri Gruntorad, Jiri Dienstbier, Vaclav Havel, Karel Kyncl, Eva Kanturkova, Jan Litomisky, Jan Kuml, Jiri Ruml, Frantisek Lizna, Jan Mlynarik, Jirina Siklova, Milan Simecka, and Petr Uhl; and if the illegal persecution of Charter 77 signatories and other citizens for their critical yet responsible opinions would stop.

The justification for our political and economic demands is supported by extensive information, which we enclose.*

In accordance with Articles 17 and 27 of the Constitution of the CSSR, we submit this document to the Federal Assembly of the CSSR, to the Trade Union Organization and to the Convention of URO.

Radim Palous, Anna Marvanova, Ladislav Lis
Charter 77 spokespersons

Prague, February 15, 1982

*(Ed.: Because the addendum to this document was not available in translation at the time of the publication of this compilation, it is not included in this report.)

Letter to the Congress of Czechoslovak Writers

Document No. 7 - 1982

"Five years ago, Charter 77 Document No. 12 (1977) brought to your attention certain facts which have been treated by official silence, namely - the existence of unpublished literature and of authors, who are being forced into inactivity. These are authors who not only do not have the possibility to publish under normal conditions, but who have been deprived of the basic tools for their work, as well as the basic means of their livelihood.

"Hana Ponicka at that time also was able to read her contribution to the discussion. This time, there is no hope that Hana Ponicka, or any other writer, will be able to submit such a statement for discussion, let alone read it. More authors are in prison now then they were five years ago. The works of some have been published belatedly and in small editions as well as in a different form - such as the works of Seifert, Mikulasek, Skacel and Hrabal. However, the number of authors, whose works are not being published is growing.

"We turn to you, the participants in the Congress, with an appeal to your moral obligation, which, in a cultured society concerns everyone, to enable every person active in cultural endeavors to voice his opinion, even if at first glance it seems quite abstract. It is impossible to remain indifferent for any length of time to obvious blunders which occur in one's closest professional environment, without this having an effect on all those who are engaged in the game of playing deaf and dumb, as well as blind.

"We are presenting to the Congress a list of 200 Czech authors whose work has recently been partially or totally banned from publication. The ban is anonymous and is directed towards authors of various generations and ideology from poets and novelists to songwriters, historians, critics and philosophers. It includes authors in Czechoslovakia and abroad, the living and those who have died recently but whose work has remained unpublished and unknown.

"As a supplement to the letter there is a list of silenced authors. There are 230 of them."

Dr. Radim Palous, Anna Marvanova, Ladislav Lis
Charter 77 spokespersons

Prague, March 3, 1982

Ludvik Askenazi
Milan Balaban
Zdenek Barborka
Rudolf Battek
Hana Belohradska
Vaclav Belohradsky
Jan Benes
Marie Benetkova
Vaclav Benda
Zbynek Benisek
Ivan Binar
Ivan Blatny
Vladimir Blazek
Jitka Bodlakova
Egon Bondy
Jiri Brabec
Vratislav Brabenec
Eugen Brikcius
Antonin Brousek
Ales Brezina
Stanislav Budin
Vladimira Cerepkova
Vaclav Cerny
Miroslav Cervenka
Lumir Civrny
Jiri Danicek
Jiri Dienstbier
Ivan Divis
Lubos Dobrovsky
Bohumil Dolezal
Jaroslav Dresler
Miroslav Drozda
Irena Dubska
Ivan Dubsky
Ladislav Dvorsky
Vratislav Effenberger
Karel Bichler
Roman Erben
Ladislav Fikar
Ota Filip
Daniela Fischerova
Viktor Fischl
Petr Formanek
Bedrich Fucik
Jirina Fuchsova
Jiri Gold
Eduard Goldstucker
Bohumila Grogerova
Ladislav Grossman
Jiri Grusa
Igor Hajek
Jiri Hajek

Ales Haman
Miroslav Hanus
Jiri Hanzelka
Jirina Haukova
Vaclav Havel
Zbynek Havlicek
Zbynek Hejda
Ladislav Hejdanek
Vilem Hejl
Jitka Henrykova
Josef Heyduk
Josef Hirsal
Jiri Hochman
Karel Hora
Dana Horakova
Bohumil Hrabal
Josef Hruby
Jaroslav Hutka
Ivana Hyblerova
Jindrich Chalupecky
Petr Chudozilov
Milan Jankovic
Pavel Jansky
Pavel Javor
Josef Jedlicka
Ivan Jelinek
Ivan Jirous
Vera Jirousova
Emil Julis
Petr Kabes
Zdenek Kalista
Eva Kanturkova
Svatopluk Karasek
Vladimir Karfik
Dusan Karpatsky
Frantisek Kautman
Rojmir Klansky
Ivan Klima
Alexandr Kliment
Helena Klimova
Milan Knizek
Josef Koenigsmark
Erazim Kohak
Pavel Kohout
J.M. Kolar
Jiri Kolar
Bozena Komarkova
Petr Kopta
Miroslav Korycan
Karel Kosik
Karel Kostroun
Iva Kotrla

Libor Koval
Jiri Kovtun
Zdenek Kozmin
Petr Kral
Antonin Kratochvil
Karel Kraus
Eda Kriseova
Karel Kryl
Oldrich Krystofek
Marie R. Krizkova
Jiri Kubena
Ivan Kubicek
Milan Kucera
Erich Kulka
Ludvik Kundera
Milan Kundera
Karel Kyncl
Pavel Landovsky
Gabriel Laub
Jiri Lederer
Josef Lederer
A.J. Liehm
Vera Linhartova
Frantisek Listopad
Bedrich Loewenstein
Josef Lopatka
Zdenek Lorenc
Arnost Lustig
Sergej Machonin
Milan Machovec
Inka Machulkova
Emanuel Mandler
Jan Mares
Frantisek Marth
Karel Michal
Oldrich Mikulasek
Stanislav Moc
Antonin Mokrejs
Milan Napravnik
Vladimir Naroznik
Zdenek Neubauer
Jiri Nemec
Ladislav Novak
Bohumil Niska
Anastaz Opasek
Jaroslav Opavsky
Radim Palous
Frantisek Panek
Jan Patocka
Frantisek Pavlicek
Karel Pecka
Jiri Pechar

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"As a supplement to the letter there is a list of silenced authors. There are 230 of them."

Dr. Radim Palous, Anna Marvanova, Ladislav Lis
Charter 77 spokespersons

Prague, March 3, 1982

Tomas Pekny
Zdenek Pinc
Vladimir Piatorius
Petr Pithart
Jiri Placek
Dalibor Plichta
Zdenek Pochop
Rio Preisner
Iva Prochazkova
Miroslav Ptacek
Lenka Prochazkova
Karel Ptacnik
Jaroslav Putik
Milos Rejchrt
Jaroslava Reslerova
Jiri Ruml
Sylvia Richterova
Zdenek Rotrekl
Pavel Reznicek
Zdenek Reznicek
Vilem Sacher
Zdenka Salivarova
Jaroslav Seifert
Jaroslav Selucky
Karol Sidon
Jan Skacel
Karel Soukup
Andrej Stankovic
Vera Stiborova
Jiri Stransky
Daniel Stroz
Milan Suchomel
Oleg Sus
Nina Svobodova
Karel Sebek
Karel Siktanc
Milan Simecka
Jan Simsa

Vladimir Skutina
Josef Skvorecky
Pavel Srut
Pavel Svanda
Nikolaj Terlecky
Zdena Tominova
Miroslav Topinka
Josef Topol
Jan Trefulka
Karel Trinkewitz
Vlastimil Tresnak
Milan Uhde
Ota Ulc
Zdenek Urbanek
Milos Vacik
Ludvik Vaculik
Marie Valachova
Edvard Valenta
Zdenek Vasicek
Jaroslav Vejvoda
Jan Vladislav
Stanislav Vodicka
Jan Vodnansky
Josef Vohryzek
Vladimir Vokolek
Vladimir Vondra
Jaroslava Vondrackova
Jiri Weil
Josef Vondruska
Frantisek Vrba
Ivan Wernisch
Pavel Zajicek
Miroslav Zikmund
Karel Zlin
Josef Zumr
Josef Zverina

* * * * * * *

To the Government of the Czechoslovak Socialist Republic in Prague

Document No. 8 - 1982

Czechoslovak citizens are hereby petitioning their government with a proposal to submit to the Conference on Security and Cooperation in Europe in Madrid the following eleven postulates as a contribution of the citizens of Czechoslovakia to be included in the concluding document of the Conference. We are convinced, that the acceptance of the ideas contained in the proposal would help in reaching a uniform interpretation of those parts of the Final Act of the Helsinki Agreement which deal with freedom of convictions and beliefs and with the activities of churches and religious societies.

We deem it quite appropriate that such a proposal should originate in Czechoslovakia, a country whose history is marked by a tradition of respect for the convictions of others. It is a country, which also knows from its history, how fateful it can be when the authorities give preference to one set of beliefs while violently suppressing the opinions of others.

In the spirit of the Universal Declaration of Human Rights, the United Nations, both International Covenants on Human Rights and the Final Act of the Conference on Security and Cooperation in Europe, we submit this proposal on the implementation of the freedom of thought, conscience and religion:

1. Each state should adjust its legal system in such a way that it would assure, in the broadest form, inside the country as well as across its borders, privately as well as publicly, the free expression of an individual's convictions, including the acceptance and preaching of religion.

2. This would enable citizens to meet and to assemble for that purpose and to freely organize within existing churches, religious societies or organizations, or outside existing establishments.

3. Churches, religious societies, organizations and associations as well as individuals should have the right to freely - without limitations - communicate with each other within the state as well as across the borders of the state. This would assist in the exchange of ideas and contribute to the deepening of spiritual, moral and religious life, as well as to the development of mutual understanding and cooperation.

4. These groups, as well as individuals, should have a guaranteed right to publicize their views on various questions concerning religious life, through the news media, publications, books and various other informative materials.

5. Parents or educators should have as a first priority to assist children in acquiring deep convictions and beliefs. The methods used by churches and religious societies in teaching religion to the young as well as to adults, should not be the subject of state supervision and persecution.

6. Access to education includes access to religious education, subject only to criteria established by the respective school or church and should be under the control of a democratic public.

7. All states should respect traditions on the basis of which associations, organizations and societies are formed, including congregations and religious orders. All states should make it possible for these groups to have contact with corresponding groups abroad, be it for the purpose of communication (see item 3) or the strengthening of structural or organizational links.

8. All states should respect the principle of self-government for these groups including their close ties with higher organs within the state or abroad. As for organizations which are an integral part of a given state and which have the status of public, corporate entities (established churches in certain states), it is necessary to make certain that their activities do not infringe on the rights of other citizens or groups. Countries in which such groups, particularly churches and religious societies, have a private, juridical character, should adjust their legal system so that it does not infringe on the rights of these groups or on the rights of their members, in employment, government offices or public institutions.

9. Churches and religious societies should have the same rights as other non-religious organizations even if they are formed under special or different laws and regulations.

10. All the above-mentioned rights can be limited only under extremely extraordinary circumstances (such as national security, catastrophy, etc.), through proper legal procedures and for a limited period of time, which would be decreed in advance.

11. The states should renounce religious or atheistic propaganda.

Dr. Radim Palous, Anna Marvanova, Ladislav Lis
Charter 77 spokespersons

Prague, March 3, 1982

Protest of Charter 77 Against the Violation of Religious Laws (particularly as it affects the Catholic Church)

Document No. 11 - 1982

To the President of the CSSR, Dr. Gustav Husak; to the Federal Assembly of the CSSR; to the Prime Minister of the CSSR; to Dr. M. Lucan; to the Ministry of Culture - to the attention of K. Hruza, Prague:

The repeatedly proclaimed statements of the government, as well as statements of the representatives of the "Pacem in terris" organization, leave the impression that the legal standing of the Catholic Church in Czechoslovak society has been justly resolved and that its activities are tolerated by the state authorities, who respect its mission as well as its specific activities (See the statement made by the Vice-Chairman of the federal government, Matej Lucan, on November 12, 1981 in Banska Bystrica; the statement made by the Secretary General of PIT (Pacem in terris), Zdenek Adler, also in Banska Bystrica; the interview of the former dean of the theological faculty in Litomerice, Ladislav Pokorny, on the radio program "For the World of 1981", regarding the virtually unlimited publishing possibilities available to the Catholic Church in the CSSR.)

However, the facts are somewhat different and speak for themselves. The facts, as grounded in Czechoslovak reality, constitute a violation of Article 32 of the Constitution of the CSSR concerning religious freedom, as well as a violation of Articles 18 and 19 of the Covenant on Civil and Political Rights (Czechoslovak Collection of Laws No. 120/76/Sb). Generally, there has been an increased campaign against religion. For example, during the training of medical personnel in the northern region of Moravia, the lecturers give priority to convincing their students of the unscientific nature of religion. We can witness the activity of school principals against religious instruction in schools, and even the registration and qualification of students is judged on the basis of their religious convictions and that of their parents. Discrimination against citizens who express their religious convictions is continuing. Publishing possibilities for religious literature are being limited more and more every day. The "Czech Catholic Charita," the only institution permitted to publish religious literature for the Catholic Church in the Czech Socialist Republic, published only one religious book and one book of religious songs in 1981. The only professional magazine "The Spiritual Shepherd," does not meet the required standard and does not inform its readers about theological research abroad. The weekly newspaper, "The Catholic Newspaper," is an instrument used for the propagation of government politics, which presents distorted information about religious life at home and abroad.

The situation at the theological faculty in Litomerice is getting more and more oppressive. The faculty does not have - evidently by design - the necessary qualifications. The appointment of professors is largely in the hands of the Secretariat for Religious Programs at the Ministry of Culture of the Czech Socialist Republic. Of the 60 applicants in 1981 who wanted to study theology, only a little more than half were accepted. The reasons for rejection: contacts with friars and not enough information about the applicant - or too much information about him. In Bratislava, twelve theologians were expelled from their classes in 1981, because they were under suspicion of organizing a hunger stike in 1980.

The forcible and legally unjustified cessation of the activities of friars in 1950 has not been rectified. On the contrary, the persecution of friars continues and the propaganda against the religious Orders is increasing. (See article of Dr. Bohuslav Cizek "The Task of Orders in the Policy of the Roman Catholic Church" which was published in the magazine "Security" dated October 1, 1981.) The priests also are under increasing pressure to join the pro-government organization "Pacem in terris" which has not been approved by the Roman Catholic legislature. Criticizing "Pacem in terris" is viewed as an indirect attack against "socialist coexistence, against the adjustment of relations between the state and the church. Such attacks will be answered in the proper manner...," (from M. Lucan, statement in Banska Bystrica, Nov. 12, 1981). A similar answer was given by an official of the Secretariat for Religious Programs, Mr. Partsch, who attended the session of "Pacem in terris" in Olomouc in October, 1981. Young people are being increasingly interrogated about "congregating for religious purposes."

Above all, however, we must speak in defense of those who were and are being persecuted and imprisoned for their religious activities. It is possible to say, without exaggeration, that the year of 1981 was the year of religious trials.

On November 24, 1981 the Regional Court in Ostrava confirmed the sentence meted out by the District Court in Olomouc against various Catholic priests and laymen including Jaroslav Krumpholc, Frantisek Lizna, Josef Vlcek, Josef Adamek and Rudolf Smahel. The real reason for the sentences was the publication and distribution of religious literature (this literature did not contain any anti-state sentiment). Both Courts, however, sentenced these persons under para 118 of the Czechoslovak Penal Code for unauthorized gainful business activity (the accused in their statements have maintained, however, that their activity was not "gainful," that, on the contrary, they often had to provide their personal funds in order to be able to continue their activities) in order to mask the real reason for sentencing the accused by claiming that they were guilty of engaging in criminal economic activity. Jesuit priest, Frantisek Lizna, was later given on January 21, 1982 another sentence for an alleged criminal offense under para 112 of the Penal Code (harming the interests of the Republic abroad).

In September 1981 in Louny, Father Josef Kordik received a suspended sentence for continuing his religious activities because "...he was not informed about the withdrawal of his permit to conduct religious services in a proper legal manner... ." In July of 1981 the authorities arrested Father Jaroslav Duka, who worked in the Skoda works in Pilsen. He was sentenced in November 1981, to 15 months of imprisonment for conducting - once - religious services without a state permit. The Regional Court confirmed the sentence on February 19, 1982. In connection with the trial of Father Duka (on October 27, 1981), the security forces descended on the Home of the Dominican Sisters in Kadan, housing about 80 Sisters. About 40 members of the armed police, together with dogs, searched the Home. The search continued the next day. The police confiscated typewriters, two officially permitted duplicating machines, official and samizdat religious literature (which did not contain any anti-state sentiments), as well as texts of prayers for everyday use. The slim results of this illegal action forced the authorities to spread disinformation about the Home (including allegations that the Home "harbored" a great number of dishonestly obtained valuable objects; that six Polish citizens lived in the House; and that a broadcasting station had been installed there).

Similar action was taken by the police against the home of pensioned priests in Moravec. The action was undertaken by 120 policemen with dogs. The police confiscated religious literature, personal items and Tuzex Certificates (certificates that can be used for merchandise in special government stores) which were legally donated by the Consistory in Brno. Again, the authorities came out with untrue reports. A day later (October 29, 1981) the police conducted house searches in the rectories in Hostec near Litomerice, in Steti and in Becov near Most. Father Radim Hlozanka was arrested and the police confiscated his duplicator and religious literature. In February 1981, Father Josef Barta was released from detention in a prison in Liberec, where he spent three months. Nevertheless, he is being persecuted while free for distributing his religious literature and for conducting seminars for those interested in theology.

Official evaluation of religious literature bears the "expert" stamp of Dr. Jaroslav Hajek from the Secretariat for Religious Programs in Prague. According to his evaluation it is, for example, a criminal offense to copy a legally published text from a Bible, even if it is for personal use. This "criminal offense" can be judged under Public law No. 93/1949 concerning the distribution of irregular publications, or under para 178 of the Penal Code - obstructing state supervision over churches and religious societies.

Also, in Slovakia, we are witnessing increased persecution of priests and laymen. The sentencing of priests such as Father Anton Zlatohlavy, Father Gabriel Povala, Father Stefan Javorsky - and layman Gunter Rompf are proof of the government stand toward the activities of the Catholic Church. Other actions by the authorities which bear the mark of brutality and sadism should also be mentioned.

At the end of October, 1981, four "unknown" men took 20-year-old Stanislav Adamek, the son of imprisoned Josef Adamek, from his place of employment. He was taken to a forest near Tisnov, where he was threatened with death. He was brutally hit in the head and an acidic substance was poured over him. He was forced to run in front of their car and they twice threatened to run him over. They then left and he was forced to walk 20 km to the nearest railway station. There are two cases of "suicide" which remain unclear and unexplained - the death of layman Coufal and Pavel Svanda, a student.

This state of affairs, naturally, arouses skepticism about assurances and ceremonial proclamations of the state about the formation of a new society, to be governed by justice, in which all are to be equal, regardless of origin or convictions. It is not necessarily the laws valid in our country which deform the spirit and the implementation of laws and officially accepted Agreements and Covenants concerning religious freedom, but their arbitrary interpretation, such as is done in the official commentary to the Czechoslovak Penal Code. The Czechoslovak courts in their evaluation of criminal offenses are guided not by the general interpretation of all accepted legal bills (the Constitution, Covenants, Czechoslovak laws, etc.) but only by the official commentary to this or that cited paragraph. For example, the commentary to para 178 of the Penal Code (obstructing state supervision over churches and religious societies), is not in conformity with Article 18 of the Covenant on Civil and Political Rights - which having been accepted by all respective official institutions - went into force on March 23, 1976.

For comparison we will cite a few "explanations" of the way these commentaries were published in an official guide for the interpretation of the Penal Code (Trestni zakon-Komentar Praha, 1980 = Penal Code-Commentary, Prague, 1980), pages 607-608. We quote: "A person whose intentions are to obstruct or to make more difficult the supervision over churches or religious societies, will thereby have violated provisions concerning the economic safeguards of churches or religious societies and will be punished by imprisonment for up to two years or by a fine."

Another explanation: The amendment concerning state supervision over churches and religious organizations is based on the principle that priests can function only with the state's permission and that religious activities and the conduct of religious services can be performed only by persons who were granted permission by the state to do so and who gave a pledge to this effect. In addition, state permission is required for any provision or nomination to any elective office the main function of which concerns religious activities. With regard to liability for criminal offense under para 178, it is irrelevant whether the activity of the offender is connected with a church (or religious society) which has permission to function, or whose activities have been forbidden.

Persons who are active in religious activities and who are not priests of the church or of the religious society, or persons who are active in other endeavors which interfere with the state's supervision over churches and religious societies can also be guilty of this criminal offense.

As an illustration it should be noted that there are cases in which the Court judged a discussion about religion or a joint prayer in a private home as criminal offense under para 178. (Justification: it was a religious activity during which it was not possible to perform state supervision).

Charter 77 wants to bring these gross violations of the Czechoslovak Constitution, of International Covenants and Agreements in the field of religious freedoms to the attention of the concerned official organs and requests that all cases of illegal religious persecution and oppression be rectified. It also requests that all laws valid in our country which limit International Covenants and human rights, be discussed and explained as a means of demonstrating that they are not destroying religious freedoms guaranteed by the Constitution and by the Covenants and that provisions will be made which would allow the fulfillment of these freedoms.

Dr. Radim Palous, Anna Marvanova and Ladislav Lis
Charter 77 spokespersons and
Vaclav Maly, member of the Collective of Charter 77 spokesmen

Prague, March 10, 1982

Copies sent to: The Pope, John Paul II, the Vatican; Cardinal Dr.Frantisek Tomasek, Prague; Organization Pacem in terris.

Open Letter of Charter 77 to the Various Peace Movements in the World

Document No. 13 - 1982

We want to emphasize again that we realize the seriousness of the situation and that we value the importance of a peace movement of ordinary citizens. As signatories of a document which is based on adherence to human rights standards, we are aware of the fact that without peaceful co-existence, one of the basic human rights - the right to life - would be threatened.

However, we are of the opinion that peace is indivisible. In order to secure peace, it would be necessary to exclude force and the threat of use of force, to secure respect for the rights of nations in international relations, as well as to end the violations and lawlessness inside the state. It would also be necessary to secure respect for human rights by the authorities in each country - with particular regard for human freedom and dignity, including the freedom of thought, faith, assembly, expression, etc. We wish to stress that there are values for which a human life may have to be sacrificed and for which life has been sacrificed (more than once).

We are of the opinion that it is not possible to believe in the genuineness of peace initiatives in places where basic human rights are suppressed or where the suppression of human rights is being met with silence or even approval. We must not forget that many infamous or disgraceful actions were committed in the name of peace. For example, in 1938 Dalladier and Chamberlain gave in to Hitler's and Mussollini's pressure, thereby enabling further expansion of totalitarian regimes and contributing to the cause of World War II -- all in the name of the preservation of peace in Europe. For their actions, these statesmen were hailed by many newspapers and by a large segment of the public in their own countries.

We are also convinced that the close relationship and mutual interdependence of peaceful co-existence and cooperation with consistent respect for basic human rights and freedoms, human dignity and moral values is the only way through which the peace movement can forcefully and effectively express itself and realize its goals.

Even though we realize the scope of the present danger, (unlike the present, in the past there was always the expectation of some life after a war) we feel that only in embracing all human rights can peace really be called peace. In addition, peace should not only be a momentary strategy of power, or the naive wish of those who want to cling to life at any price without regard for human responsibility to values which transcend life.

As signatories of Charter 77, but also as citizens of Europe whose civilization dates from ancient Greece and Christianity, and which, except for a few omissions, has been noted for its ability to recognize this human responsibility) we are bound not to abandon the basic requirements of human rights, including notably, the right to life and, thereby, efforts for peace.

In view of the fact that Europe and the world face very real dangers and that efforts for peace by official social groupings can come under suspicion since they usually operate within the framework of political or power configurations, we feel that these questions could best be addressed by unofficial citizens' initiatives. We have already had a chance to exchange views with representatives of the peace movements of certain countries and we would welcome further discussions or meetings with regard to these issues.

Dr. Radim Palous, Anna Marvanova, Ladislav Lis
Charter 77 spokespersons

Letter to the Federal Assembly, the Prosecutor General and the Supreme Court of the CSSR on the Penal Code

Document No. 14 - 1982

On October 7, 1968, the representative of the CSSR signed the International Covenant on Civil and Political Rights in New York. The Federal Assembly of the CSSR expressed its agreement with the Covenant on November 11, 1975, and on December 23, 1975 it was ratified in Prague by the President of the CSSR. The Covenant then came into force in the CSSR on March 23, 1976. The validity of the international obligations contained in the Covenant was then confirmed by publication of the Covenant in the Collection of Laws of the CSSR. This publication carried with it an obligation to bring the existing legal system of the country into conformity with the Covenant and to abide by its provisions. Document No. 15 of Charter 77 (January, 1978) and a letter from Charter 77 spokesmen, dated February 8, 1978, contained concrete suggestions and proposals for measures which would bring the legal system and government practice into conformity with the obligations accepted by the highest organs of the state, in ratifying the Covenants as well as in signing the Helsinki Final Act.

However, even without such modifications and measures, a legal state is guided by the principle that norms adopted later cancel or modify norms valid earlier (Lex posterior derogat priori). This principle, however, is not recognized in practice by the Czechoslovak security and judicial organs, which are doing their best to interpret the provisions of the Covenant in a way which would suggest that they actually are subverting presently valid norms and practices - which is in direct contradiction of Article 5 of the Covenant.

For example, during the appeals proceedings against Jan Litomisky, held on January 7, 1982, the representative of the prosecution argued that the accused was erroneously referring to Article 19 of the Covenant on Civil and Political Rights, because - according to his interpretation - national norms which limit freedoms guaranteed by the Covenant are more important for Czechoslovak citizens, since they do not contain anything which could be considered anti-socialist.

The proposals for modification, worked out in the spirit of Article 17 of the Czechoslovak Constitution which obligates citizens to have an active interest and to participate in the implementation of laws in all areas of social life, and presented by the authors in accordance with Article 29 of the Constitution on the Right of Petition, remained unanswered, even though the above-mentioned provision of the Constitution states that the addressees of such proposals are "obligated to deal with them responsibly and in a timely fashion."

On the other hand, official commentary to the Penal Code attempts to explain the provisions of the Covenants in a way which contradicts Article 5 of the Covenant on Civil and Political rights and actually interprets the Penal Code as substantially limiting, even denying the rights, guaranteed by the Covenants. Article 5 of the Covenant states: "...Nothing in this Covenant can be interpreted in a way which would give to any state, to any group or person, the right to generate activities, or to commit acts directed towards the suppression of any rights or freedoms recognized by this Covenant or to the limitation of these rights on a greater scale than specified in the Covenant. Basic human rights, recognized in any state which is a party to this Covenant on the basis of law, agreements, rules or customs, will not be limited or abrogated under the pretense that the Covenant does not recognize such rights, or that it recognizes them on a limited scale..."

The next part of the document lists examples in which the official interpretation in the commentary differs not only from both of the International Covenants but also from still valid Czechoslovak laws.

"Article 19 of the International Covenant on Civil and Political Rights says:

1) Everyone shall have the right to hold opinions without interference.
2) Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media.
3) The exercise of the rights provided for in the foregoing paragraph carries with it special duties and responsibilities. It may, therefore, be subject to certain restrictions, but these must be provided for by law and be necessary:
   (a) for the respect of rights or reputations of others
   (b) for the protection of national security or of public order, or of public health or morals."

Penal Code para. 112 - Harming the interests of the CSSR abroad:

"A Czechoslovak citizen or an inhabitant of the Republic, who is not a citizen - who harms the interests of the Republic by distributing or by making distribution possible abroad of untruthful information on conditions in the Republic, about its international standing, or about its foreign policy, will be punished by the loss of freedom for up to 5 years or by the forfeiture of property." (Explanations - see pages 433-346 of the Penal Code)

From Item 1 (of the explanations): "...the subjects of protection are all interests of the Republic abroad - be they political interests, economic interests, cultural interests, or other interests..."

Item 2: Criminal offense under para 112 is a "potential criminal offense" which means, that in an objective sense, the interests of the Republic abroad do not actually have to be damaged in order for one to be charged with that offense.

Item 3: Information, according to this provision, may be any allegation or communication with regard to the past, present or future - that is connected with conditions in the Republic, with its international standing or with its foreign policy. This information can be of a general character, or can be related to certain events or a certain person.

Item 4: Distribution of this information covers any and all communications in which the information comes to the attention of a great number of people. This covers oral communication, communication through the press, radio, television, tape, film, etc. The provision on communication also covers information sent abroad in a personal letter or in a copy of a publication which contains "untruthful" information.

Item 5: The provisions limiting the distribution of information abroad prohibit the distribution of such untruthful information on the soil of another state and the transmission of such information to another state. Also prohibited are efforts to transmit such information to another person in the CSSR with the intent to get this information disseminated abroad.

Item 7: These limitations concern "untrue" information which is intended for distribution abroad. However, this means that the information distributed must be either a total fabrication or information which originally was true, or partially true, but which through half-truths, or use out of context, is slanted against the Republic in a way which presents the Republic in an unfavorable light and thus has the same effect as information which was fabricated.

(The explanation concerning this paragraph of the Penal Code has 12 Items - not all have been cited).

Penal Code, para. 98 - Subversion of the Republic

1. "He who, out of hostility to the socialist social and state system of the Republic engages in subversive activity against the social and political system of the Republic, its territorial integrity, defense capability or independence, or against its international interests..." will be punished by loss of freedom from one to five years.

2. The offender will be punished by loss of freedom from 3 to 10 years if:

   a) he commits the criminal offense described in Article (1) in collusion with a foreign power or with a foreign agent
   b) he commits such a criminal offense on a greater scale, or
   c) he commits such a criminal offense during a military emergency in the state.

Below are several items from the "explanations"

Item 10: Subversive activity is usually directed against the interests of the CSSR in the political arena as well as in such fields as ideology, education and economics - performed either in a series of related actions or by a single act which, due to its intensity and consequences, is able to weaken the Republic and its interests.
It is also necessary to regard as subversive activity such activity performed on a local level, by individuals or groups.

Item 12: "Open letters" containing distorted data or rumors regarding conditions in the Republic, addressed to Party officials or to state or other administrative organs of the CSSR, which are given to correspondents or to other organs of imperialist powers to be used against the CSSR in the international forum - are also to be regarded as subversive.

Item 13: Subversive activity through ideological diversion is especially dangerous. It is distinguished, above all, by spreading disinformation and half-truths, by exaggerating the magnitude of errors and shortages in order to belittle the Lenin principles of socialism by pretending support, while fomenting nationalism and provoking doubts about Marxism-Leninism and the leading role of the KSC (Czechoslovak Communist Party) and by propagating anti-socialism among consumers hereby creating the basis for the destabilization of the socialist system.

Item 14: Subversion of the socialist social and state system of the Republic is also done through actions of smaller dimensions which are directed against the socialist character of our state as embodied by the political system of the Republic - such as, for example, the promotion of a return to a bourgeois democracy, or agitation against the leading role of the working class or of the KSC. Such subversion may include local actions such as trying to inject disagreement and malice between workers and farmers, or between farmers and cooperatives; or local actions against the federative arrangement in relations between Czechs and Slovaks; or the fanning of isolated nationalist differences; or isolated actions against the Constitutional amendment concerning racial policy. It would also include actions designed to weaken the effectiveness of national committees or to discredit these committees and the judicial system. Organized or consistent action against the socialist economic system, based on socialist ownership of means of production and planning, would also be considered subversive.

Item 17: The promotion of a so-called Central-European Federation, calling for elections under international supervision or agitation for the intervention of the United Nations Organization in the affairs of the CSSR, are also to be considered subversive activities against the independence of the Republic.

Item 19: Subversion of the Republic is considered a "potential" criminal offense, therefore, it is irrelevant whether the activity of the offender has had any outside consequences or not.

Item 20: The activities described in the paragraphs above cannot be considered as freedom of expression, guaranteed by the Constitution (Article 28) or as a Right of Petition (Article 29), because they attack the foundation of the Republic and fall within the category of the criminal offense of subversion of the Republic. These conclusions are not in contradiction with Article 19 of the International Covenant on Civil and Political Rights. The right to hold one's opinions without interference and the right to freedom of expression in any manner, embodied in paragraphs 1 and 2 of this Article, cannot be separated or viewed separately from paragraph 3 of the Article.

It is well-known that the disregard of Czechoslovak security and judicial organs for obligations stemming from the Covenants and the Helsinki Final Act has on numerous occasions been criticized by the same elements of world public opinion which are presently in the forefront of the peace movement against nuclear

armament in Europe. This same disregard has created an unfavorable atmosphere for Czechoslovakia in its bilateral relations, as well as during important international discussions of the Conference on Security and Cooperation in Europe in Belgrade and in Madrid and in the International Labor Organization.

This state of affairs is not beneficial to the international interests of the Czechoslovak Republic, or to efforts to consistently observe all principles of cooperation among the nations of our continent. Most of all, however, it does not assist in the stimulation of true civic pride, which is neded now more than ever, due to increased domestic difficulties as well as to the complexities of the problems of the Czechoslovak economy.

All appeals to such commitment and initiative will have no effect as long as criticism of the anti-social actions of the authorities, all endangered by the arbitrariness of these authorities regarding the interpretation of laws and norms, as has been manifested in the above-mentioned commentary and its application by the security and judicial organs.

We, therefore, repeat our advice and our proposals for legislative reforms, as well as the need for the adjustment of the activity of state organs - especially the security and judicial apparatus - in such a way that this activity conforms with the obligations assumed by the Czechoslovak government in signing and ratifying the Covenants on Human Rights and other agreements concerning relations of the state to its citizens. The citizens' initiative, Charter 77 is ready - as it has already noted in many documents and letters - to assist in this endeavor with the cooperation of experts from its own ranks as well as from the ranks of its friends...

Dr. Radim Palous, Anna Marvanova, Ladislav Lis
Charter 77 spokespersons

Prague, April 15, 1982

Charter Disavowal of Open Letter to Trade Union Congress

Document No. 15 - 1982

On Wednesday, March 31, 1982, the Czechoslovak security police detained for interrogation Charter 77 spokespersons Dr. Radim Palous, Anna Marvanova and Ladislav Lis, as well as some of their relatives and family members. The reason behind the interrogation was a document, allegedly issued by Charter 77, entitled, "Open Letter of Charter 77 to the So-called 10th Trade Union Congress."

Those detained were questioned about the authorship of the letter. Only Dr. Radim Palous read the letter in its entirety; the others were informed of parts of the text. The letter was denounced by the security police as a "subversive act against the unity of the trade union movement, and, therefore, as an anti-state act."

During a talk with Vaclav Bumba, director of the Institute of Astronomy at the Czechoslovak Academy of Sciences, Jan Palous, son of Charter 77 signatory Dr. Radim Palous, was informed that the report concerning the document allegedly issued by Charter 77, came from the Czechoslovak Press Agency. The relatives of Charter 77 spokespersons were immediately contacted and asked to warn the spokespersons.

All three Charter 77 spokespersons denounced the document as an obvious forgery and declared that Charter 77 never issued such a document and that, to the extent of their knowledge, no one associated with Charter 77 had anything to do with the letter. They also stated that they were not planning - and are not planning - demonstrations or any other provocative action mentioned by the security police during the interrogations.

Charter 77 spokespersons regard this incident as an attempt to discredit the spokespersons and the Charter 77 movement at home, as well as abroad. Such actions are aimed, in all probability, at intimidating citizens and could serve as a justification for repressive actions.

The citizens' initiative, Charter 77, is working toward positive and legal goals, as can be ascertained from its founding charter and its documents. The language as well as the content and form of the forged document are absolutely foreign to it.

Dr. Radim Palous
Charter 77 Spokesman

Ladislav Lis
Charter 77 Spokesman

Anna Marvanova
Charter 77 Spokeswoman

Prague, April 6, 1982

Terrorism

Document No. 17 -- 1982

To: President of the CSSR
Dr. Gustav Husak
Praha - Hrad

A negative phenomenon of the second half of the twentieth century is terrorism, which has spread all over the world like a dangerous infection. Innocent people, many of whom have no interest or involvement in sensitive issues of a political, religious, national or social nature, are being taken hostage. Even children and old people are being taken as hostages.

Persons who are related to or connected with hostages through political, religious or other organizations are forced to cooperate with the kidnappers out of fear over the fate of the hostages. Pressure, in the form of direct or indirect blackmail, is not only being exerted by individuals on other individuals, and by the politically weak against the politically strong, but also by the powerful against ordinary people.

Political terrorism is an indication of the total collapse of elementary moral values, which at the same time indicates weakness in the protagonists. Attempting to mask this weakness, perpetrators of terrorism commit blatant crimes against humanity. These acts only serve, however, to further weaken social order.

We have, therefore, an obligation to resist any activities by those with executive power in our country which might employ methods close to terrorism.

There has lately been a marked increase in cases involving the persecution of relatives, friends and acquaintances of Charter 77 signatories and the use of scare tactics against them. Such tactics would include threats of being fired, public scandal through fabricated rumors, physical attack by "unknown" persons, eviction and deprivation of personal property.

Many members and spokesmen of the citizen's initiative, Charter 77, are being subjected to systematic blackmail and are being victimized by unsubstantiated rumors about involvement in conspiratorial activities which border on espionage. They have also been accused of painting anti-state slogans on walls and planning violent actions. Nothing is further from the truth.

In March and April of this year, for example, the relatives of the current Charter 77 spokesmen were harassed and urged to convince the spokesmen to give up their activities of defending human rights, furthering peace inside the country as well as outside, enforcing the law and protecting against the arbitrariness of those who do not recognize the laws of the land, and criticizing the unhealthy state of affairs in our country and offering positive suggestions for reform.

By harassing the relatives of Charter 77 spokesmen, the authorities have ignored Article No. 30 of the Constitution of the CSSR, which guarantees the inviolability of a person, as well as para. 9 of the Czechoslovak Penal Code, which stands on the principle that guilt is not transferable and that an offender is defined as the person who committed the offence. Therefore, even if the activities of Charter 77 spokesmen were unjustifiably qualified as felonies or criminal offences, the persecution of other persons for their alleged crimes, even if they are close relatives, is illegal.

It has already been established as well as proven by the experience of Charter 77 over the past 5 years, that all its activities are in conformity with the existing laws and legal norms as established by the Czechoslovak Constitution, with international agreements which have been incorporated into the Czechoslovak legal system, and with all other laws of the CSSR. The interpretation and application of these laws must be in harmony; one law cannot contradict another existing law nor can it supercede another law.

We would like to bring these discrepancies to the attention of competent organs of the government because we cannot believe that such illegalities could be perpetrated with the full knowledge of the state organs, or that the state organs could be behind the kidnapping of hostages.

Illegal actions are being committed under the incorrect interpretation of provisions of para. 19 of the Public Law on the SNB (the security police), under which, without prior notification, individuals are being brought for interrogation to the offices of the SNB where they are asked questions about issues such as personal contacts, political, religious and civic views, etc., not under the jurisdiction of the SNB. These individuals are also brought in under false pretenses, such as a charge of "hooliganism," (para. 202 of the Czechoslovak Penal Code), and held 48 hours in detention.

This illegal and inhuman practice is also being used against citizens who do not "conform" and against their friends and relatives. This state of affairs threatens the very existence of our society. If the highest state organs permit practices in the conduct of state affairs which show disrespect for valid laws and regulations, or if they allow the laws to be misinterpreted, this could lead to the suspension of the legal system and the substitution of arbitrary rule. Only the full implementation of all laws and legal norms will prevent a return to the state which

existed when you yourself, Mr. President, were illegally persecuted and imprisoned. We expect, therefore, that the respective state organs will put a stop to these illegal practices.

Dr. Radim Palous
Charter 77 spokesman

Anna Marvanova
Charter 77 spokeswoman

Ladislav Lis
Charter 77 spokesman

Prague, May 3, 1982

cc: Federal Assembly of the CSSR
Prosecutor General of the CSSR

Letter to the Peace Movement in the German Democratic Republic

Document No. 18 - 1982

Charter 77 expresses full support for your peace efforts and shares your concrete goals. It is of the opinion, as expressed in the Charter 77 Document No. 13/1982 (Open Letter to the Peace Movements), that ordinary citizens, individually and in unofficial groups, should take up the cause of human rights and of a just peace, which means being able to live free from militarism and nuclear weapons of mass destruction, and, as concerns external and internal peace, a life in which it is recognized that the civic duty of each citizen in every state involves the responsibility and duty of ensuring that all provisions concerning human rights are implemented.

Militarization and militarism, against which we stand together, are viewed as a dangerous phenomenon both on the international scene and in the internal political sphere. We welcome the fact that an unofficial peace movement involving average citizens originated in the German Democratic Republic--part of a former European Power which played a great part in the militarization of Europe in the first half of the 20th century. This is the reason why we value your courageous efforts so highly.

We are aware of the fact that your statement concerning the peace movement was signed by, among others, Prof. Havemann, who died not long ago. May we express our deepest sympathy over the death of this courageous German. Please convey our sentiments to all his relatives.

Dr. Radim Palous
Charter 77 spokesman

Anna Marvanova
Charter 77 spokswoman

Ladislav Lis
Charter 77 spokesman

Prague, April 21, 1982

Position of Charter 77 on the Implementation of the Discrimination Convention No. 111 of the International Labor Organization

Document No. 19 - 1982

To: the Government of the Czechoslovak Socialist Republic
and the Central Council of Unions, Prague

The citizens' initiative, Charter 77, considers it its duty to again bring to the attention of the government of the CSSR the fact that the commitments undertaken by the government of Czechoslovakia by its ratification of Discrimination Convention No. 111 of the International Labor Organization, are still being violated in Czechslovakia. According to this Convention, all forms of discrimination against citizens in their employment with regard to their political, civic and religious views as well as their nationality or race, are prohibited.

This fact of Convention violations is not news. When we look into the past, we are reminded that in the years 1969-1970, hundreds of thousands of Czechoslovak citizens were fired from government jobs, as well as jobs in the business community, after they were screened for their political reliability, based on their political or religious views. In order to make the firing of citizens simpler, the government amended para. 53 of the Labor Code in 1969. The amended paragraph, however, contradicts the Czechoslovak Constitution, as well as the commitments undertaken by the Government of Czechslovakia through its ratification of Covenant No. 111. The International Labor Organization has brought these facts to the attention of the Government of Czechoslovakia several times. During those two years, the ILO even kept the Czechoslovak government on a "Black List" until the critical situation was corrected. The so-called Black List names states which do not honor commitments ensuing from Covenant 111. Because of the criticism of the ILO, the Czechoslovak government amended the Labor Code so it would conform to the provisions of Covenant 111. At the same time, the government of the CSSR provided the ILO with information on how the amended Labor Code will be interpreted.

According to this interpretation, termination of employment, justified by the employer as necessary because the employee committed an act endangering the security of the state, must be substantiated by proof - as was explained by the Czechoslovak delegate at the ILO - that the "employee did indeed commit such an act which endangers the security of the state." The term "security of the state" includes: the inviolability of territory of the state; inviolability of the state,s capability to organize its defense; and inviolability of the state's constitution and of state secrets. (Minutes of the meetings No. 36 taken at the 60th session of the ILO in Geneva.)

While incorrect provisions of the Labor Code were amended, existing violations of the provisions, which were caused by the application of these incorrect interpretations, were not rectified. Citizens who were fired from their jobs in 1969 because of the incorrectly amended Labor Code, were not given the opportunity to return to these jobs, nor were they able to obtain employment in similar positions elsewhere. Even though the Czechoslovak government submitted information to the ILO regarding the interpretation of the correctly amended Labor Code, it did not inform its citizens of this change, either in various government statements, or through the media, which is controlled by the state.

Further, the Czechoslovak government did not apologize to the citizens who were victims of the dismissals, nor did it commit itself to discontinuing the practice of checking citizens' political or religious views as part of the application process for employment in the government or in industry. The consequences of this inconsistency of the government of the CSSR was felt very deeply in 1977 and in the following years when many citizens signed the human rights manifesto Charter 77, requesting the Czechoslovak government to abide by the agreements it signed with regard to human rights which were ratified by the President of Czechoslovakia and published in the Czechsolovak Collection of Laws. As a result of signing this human rights manifesto and because of other civic and political views, many Czechoslovak citizens were fired from their employment at that time.

The General Prosecutor of the CSSR justified these firings on the grounds that Czechoslovak citizens who signed Charter 77 endangered the security of the Czechoslovak state, although he was unable to base this assumption on material or legal proof. The citizens' initiative, Charter 77 brought to the attention of the Czechoslovak government, the General Prosecutor and the Labor Department, the fact that such dismissals violate the existing Czechoslovak legal system as well as the commitments ensuing from the Convention of the International Labor Organization No. 111.

Some improvement in the situation came after the International Labor Organization, acting on the request of the Confederation of Free Trade Unions, asked the Czechsclovak government for an explanation of how, in regard to the 1977 firings, it was implementing the provisions of Convention No. 111. The Czechoslovak government has since then submitted several explanations to the ILO; none of them, however, was satisfactory.

As is evident from the minutes of the 67th session of the ILO in Geneva which was held in 1981, the Czechoslovak delegate reported that "....out of 42 employees who were affected (i.e. employees named in the complaint which was discussed at the ILO), only 24 appealed the firings at Court; 8 of the 24 cases were resolved satisfactorily, 2 cases were reconciled and in 5 cases the employees were reinstated. In one case the firing was annulled and the Court awarded the employee 17,000 Kcs in damages. In all these cases, as in 16 others where the appeal was refused, the employees were able to stay in their jobs....".

Unfortunately, the explanation given by the Czechoslovak government, does not accord with the facts. In several cases which were appealed, the Courts did rule in favor of the employees, however, such cases are rare. The corrections in the interpretation of the Convention No. 111 were not made until after a great lapse of time and, in many instances, persons who were fired from their employment considered appealing to the Courts useless since so many cases of a similar nature were resolved unfavorably.

Another factor determing why so many cases have not been appealed, is the cost involved and the fact that ROH (the trade union) refused legal assistance. The Court proceedings were, in all cases, conducted in such a way that they grossly violated the existing legal system. The Courts would not allow the public to attend the hearings or the "defendants" to submit evidence, and they refused to deal particularly with Charter 77 and to allow the inclusion of its text in the individual files, even though in many cases the signing of the manifesto was the only reason for firing the employee. The only evidence admitted was the brief of the Prosecutor General of the CSSR, which was mimeographed and automatically inserted in the files of cases dealing with labor relations disputes.

The job dismissals not only concerned persons named in the complaint, as discussed by the International Labor Organization, but many other citizens as well. The latest known dismissals were carried out after the Czechoslovak government submitted its explanations to the ILO. In none of the cases of illegal firings, which we documented and brought to the attention of the public in our statement at the beginning of 1981, was any change recorded which would have corrected the injustice done to the persons concerned.

The facts, with regard to those who were fired from their jobs and positions because of their views, do not square with the claim of the Czechoslovak delegate that all these citizens were able to stay in their jobs, (unless he meant <u>any</u> job--such as a job which does not utilize the qualifications of the worker.)

Even though the Czechoslovak government informed the ILO as to how it dealt with cases of Charter 77 signatories who were fired for signing the Charter, it did not deem it necessary to inform the citizens of Czechoslovakia of this development. It is also regrettable that the government did not, through public media accessible to all Czechoslovak citizens, proclaim that:

a) the steps taken by the employers during the proceedings leading to the dismissals of citizens named in the complaint, were incorrect;

b) in the future, no Czechoslovak citizen will suffer in his employment for expressing his civil, political or religious views, even if they are different from official views, so long as they are expressed in accordance with Czechoslovak laws (if, for example, they are in accordance with commitments of the Czechoslovak government and Czechoslovak citizens, undertaken through the ratification of the International Covenants on Civil, Political, Cultural and Economic Rights);

c) it will, in the framework of its jurisdiction, assure the punishment of those supervisors in the government and in the business sector, who fire employees for their views.

Without such a proclamation from official Czechoslovak sources addressed to the Czechoslovak public, it will not be possible to believe that there has been a real and lasting change in the area of labor relations. Nor could it be believed that there will be no repetition of dismissals such as we witnessed in the past, or that Convention No. 111 is being respected and fully implemented in labor relations in Czechoslovakia. All this, together with facts which substantiate the complaint that the statement of the Czechoslovak delegate to the ILO in several instances contradicts the situation as it really is, brings one to the conclusion that the actions of the Czechoslovak delegation in the ILO were directed toward one goal only, which was not to remedy relations in the area of labor relations in the CSSR, but to remove from the agenda as quickly as possible the complaint against the Czechoslovak government, with regard to the implementation of Convention No. 111.

Dismissals for expressing political and religious views, which differ from official views, represents only one aspect of violations against the rights of Czechoslovak citizens in employment. This discrimination is in contradiction to the commitments undertaken by the Czechoslovak government with respect to the implementation of Convention No. 111 of the ILO.

The second, no less important aspect of the violations of citizens' rights with regard to employment, is the denial of equal opportunity for all Czechoslovak citizens to enter a profession or to secure employment by the government or industry. This limitation affects hundreds of thousands--if not millions--of Czechoslovak citizens. In contrast to terminations of employment, which can be documented by concrete documents such as a notice from the employer or a court decision in a labor dispute, this kind of discrimination is not covered by any provision of the Czechoslovak Labor Law, and cannot be documented by any concrete evidence. This discrimination is practiced outside the law and is, therefore, illegal. It is based on various decisions and instructions which were not made public, but which are binding because they were registered in the Collection of Laws.

The Federal Ministry of Labor and Social Concerns, for example, issued on January 27, 1977 under No. 11/5-34/77-73/3, a ruling which stipulates the nomenclature of functions and basic pay schedules for employees of the government and other governmental agencies. This ruling is still in force. It was amended only with regard to wage increases and their scope. From this ruling, which should stipulate qualifications required and pay scale, we quote this passage:

"The qualifications of a government employee are measured by his/her political maturity, expert competence, personal ability, character and health."

Article 1,a: "Political maturity of an employee of the government is characterized by acknowledgement of the leading role of the Communist Party of Czechoslovakia and of the working class in a socialist society; by an active attitude towards the building of socialism on the basis of Marxism-Leninism and by a committed approach to the fulfillment of the political goals of the Communist Party of Czechoslovakia. An essential ingredient in political maturity is the enforcement of the principles of proletarian internationalism, consolidation of friendship with the Union of Soviet Socialist Republics and with the other socialist states and active engagement against bourgois ideology."

This, then, is the active ruling with regard to "qualifications" for government employees. This Ruling was incorporated into the nomenclatures of functions and pay scales of all government offices. The Ministry of Transportation, for example, has a similar ruling which was registered in the Collection of Laws, 1982, Section 5, as does the Ministry of Energy, to be found in the Collection of Laws, 19982, Section 6.

In addition, there exists a widely used system of "party nomenclature." It is common knowledge that the great majority of management positions (in the government and elsewhere) can be filled only after approval by an organ of the Communist Party of Czechoslovakia. These decisions are accepted outside of the normal procedures and are not based on existing Labor Laws. An employee whose fate is being debated is not invited to these discussions and cannot, therefore, voice his opinion and appeal against the decision concerning his case. In order to qualify for thousands of jobs, one must fulfill special requirements. Almost daily it is possible to read advertisements placed in the newspapers by various enterprises and institutions which are looking for employees, who apart from expert qualifications, education or other special requirements--such as knowledge of languages--must also qualify on the basis of a special screening. Every Czechoslovak citizen knows what this term means--a term which is not based on any existing labor law.

We quote a part of the Ruling with regard to screening (evaluation) and personal qualifications, which was agreed upon by the Chairmanship of the Central Committee of the Czechoslovak Communist Party on November 6, 1970, and which was published by "Rude Pravo" on February 24, 1971. This Ruling is still in force:

"Qualification is composed of: political maturity, class consciousness, the required degree of theoretical knowledge, experience in life and employment, skills, general outlook and intellect, moral qualities and personal abilities. The important part of all this is formed by political views, loyalty to socialism, Marxist-Leninist policies of the Communist Party of Czechoslovakia and the socialist state, and friendship with the Soviet Union."

When we look at this definition without taking into consideration the normal qualification requirements with regard to work performance, and personal and moral qualities of employees, we can see the real reason for this "screening." It is evident that to qualify for certain positions, it is necessary to have specific personal and political views. Persons whose views do not conform to the officially declared political party line, have no chance of securing such positions. During interviews the applicants find that the "qualification requirements" often include membership in the Czechoslovak Communist Party.

The point of the matter is not that members of the Czechoslovak Communist Party have better possibilities, but that a citizen who might wish to become a member of the Party, in order to have better access to employment, cannot do so. The acceptance of a person into the KSC (Czechoslovak Communist Party) does not depend on his goodwill, but whether the Party will want to accept him as a member. And again, while membership in the KSC carries with it the possibility of seeking and obtaining employment in

government, governmental agencies, the army, the economic sphere and elsewhere, the ordinary citizen does not have the right to be a member of this organization. And because he does not have the right to be a member of the organization, he cannot appeal its decision, because this organization is the only one with the power to decide who will be recommended for what position. There is no appeal to any independent Court or state organ.

The practice of evaluating applicants has been instituted in most offices and institutions. In some institutions the questionnaires are even more probing. The questions asked, besides normal personal data, qualifications, etc., also concern irrelevant personal data and political affiliation of family members. The applicant is also requested to state--in a special enclosure to the questionnaire--his political and personal views. One requirement stipulates that the applicant name all his relatives abroad.

It is impossible to overlook this question by either not answering it or by not answering completely. From the day a person finishes basic schooling and throughout his entire career until his retirement, his file, which includes every evaluation or screening concerning his person and family, goes wherever he goes, from job to job, with new evaluations being added to the file. The employee has no opportunity to see what is in his file and cannot, therefore, appeal against untruthful statements, evaluations, or views expressed in connection with his work or personal life. In many cases, files include evaluations based on anonymous charges. This practice discriminates against a large segment of citizens of our country, in many cases for the rest of their lives.

This outline concerning the problems inherent in labor relations in Czechoslovakia is proof that Convention No. 111 of the ILO, prohibiting discrimination in employment, is being violated not only by employers and Court organs, but also by existing legal amendments, particularly in the area of qualification requirements which are a part of secondary wage norms and other regulations.

It is our opinion that the Czechoslovak government would demonstrate its responsibility with regard to respecting international relations by accepting the following measures:

--To establish a special commission of the government of the CSSR and of the URO (trade union organization) whose task it would be to determine the cause of the violations of Convention No. 111 of the International Labor Organization and to correct the consequences of mass discrimination against citizens and to secure their return to the positions for which they are qualified.

--To permit entry into the CSSR of an independent working group of the International Labor Organization which would study the basis for the special commission and ascertain on the spot the extent of implementation of Convention No. 111.

--To amend all qualification requirements in such a way that they would guarantee to all citizens equal access to employment, regardless of their political or religious views. This would include applicants as well as citizens already employed.

--To repeal the ruling of the Supreme Court No. 20, 1978.

--To amend directives concerning evaluations for positions in the government, governmental agencies, public organizations and institutions, so that they would reflect the qualifications of the employees.

--To amend directives so they would permit an employee access to all evaluations which deal with him and his work performance and make it impossible for any evaluation to be made secretly. This would also permit the employee to have control over this procedure, or to have this procedure controlled by the public, (co-workers, union, etc.).

--To publicize the text of Convention No. 111 of the International Labor Organization and to make public the commitments undertaken by the government of the CSSR to enable this Convention to become a part of our political, economic, cultural and religious life.

We wish to stress that the suggested amendments and commitments concerning personal and professional questions do not concern only the interests of individual employees, but the interests of the whole society--namely, its economic prosperity and attitude which create legal assurances and just treatment. We repeat that we are willing to participate in the realization of the above-mentioned principles, as well as assist in the implementation of Convention No. 111 of the International Labor Organization. We can submit documentation for concrete cases, where the Convention was, and we quote, "violated," and we can assist with further suggestions.

Dr. Radim Palous
Charter 77 spokesman

Anna Marvanova
Charter 77 spokeswoman

Ladislav Lis
Charter 77 spokesman

Prague, May 17, 1982

cc: World Trade Union Federation, Prague
Confederation of Independent Trade Unions, Belgium